

PUBLIC MEETING**TUESDAY THE 26th DAY OF FEBRUARY 2002**

The meeting was called to order by Chairman Bill Murdock at 9:08 A.M., at the Senior Center, Basement Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

FEBRUARY 18, 2002

- The Commission office was closed in observance of President's Day.

FEBRUARY 19, 2002

- The Commissioners conducted regular County business.

FEBRUARY 20, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Attorney Susan Swimley, Road and Bridge Superintendent Lee Provance, and Commission secretary Glenda Noyes. The Commissioners considered a request from Potter Clinton Development, Inc. for waiver of petition process in the creation of the Amsterdam Highway/River Rock RID. Ms. Swimley noted that the petition process has been waived twice before, and everyone who has purchased property in River Rock subdivision has signed a waiver of right to protest. The policy on RID's requires a petition, but the policy has been waived in the past. The RID must be created, as it is a condition of approval. The Commissioners asked Ms. Swimley to proceed with looking into a "top-down" RID creation.

The Commissioners considered an extension to contract #1999-131 with Maxim Technologies for web-site work and conversion into Virtual Town Hall, along with the licenses for Virtual Town Hall. Finance Officer Ed Blackman noted that the money would be available from contingency. Commissioner Vincent made a motion to approve the extension of contract 1999-131, contingent on the funds coming from contingency. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Commissioner Vincent made a motion to reaffirm Resolution 2002-021 as Resolution 2002-01A, and amendment to Resolution 2002-01, as requested in a memo dated February 19, 2002 from Acting Clerk to the Board Mary Miller, noting that a mistake in numbering was made at the February 19th public meeting. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed pursuing a land purchase for relocation of the Road Department. Commissioner Vincent made a motion to start the process to do so, as recommended by Finance Officer Ed Blackman. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

FEBRUARY 21-22, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Approval of claims were presented by the Auditor, dated February 21, 2002 in the amount of \$141,642.91.
2. Consideration of Contract(s): Tri-Party Signal Agreement Between Gallatin County, Montana Rail Link, and State of MT; and Animal Impound Agreement Between Humane Society and Sheriff's Office.
3. Request for Mortgage Survey Exemption for Brian K. & Victoria M. Johnson, located in the NW ¼ of the SW ¼ of Section 34, T2N, R4E (Spaulding Bridge Road, Belgrade). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request of Mortgage Survey Exemption for Kurt Stabenau, located in the N ½ of the S ½ of Section 27, T1S, R2E (12300 Buffalo Jump Road). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Mortgage Survey Exemption for Chris Nelson, President/Managing Member Zoot Properties LLC, located in the S ½ of the NW ¼ & the N ½ of the SW ¼ of Section 11, T2S, R4E (Zoot Enterprises Inc. Campus, Four Corners). Gallatin County Planner Sean O'Callaghan

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reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

- 6. Request for Correction Survey for Leroy Arneson, Curtis Malmquist, Karen Arneson, and Jerry Arneson described as COS 1390A, located in Government Lot 4, within the NW ¼, of Section 4, T1S, R4E, Gallatin County (Thorpe Road and Rottweiler Lane). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
- 7. Request for Correction Survey for Clarence and Wayne Klompien and Linda Klompien and Larry and Lorraine Klompien described as COS 2111, located in the W ½, NW ¼, NW ¼, of Section 16, T1S, R4E, Gallatin County, (Linney Road). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
- 8. Request for Lot Aggregation for Fish On L.L.C. described as Lots 1 and 2, High K Major Subdivision, located in the SE ¼ of Section 4, T1S, R4E, Gallatin County, Montana. Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda, noting additional claims would be considered at 3:30 P.M. There was no public comment. Commissioner Mitchell requested that both contracts be placed on the regular agenda for further discussion. Commissioner Mitchell moved to approve the consent agenda, as modified. Seconded by Commissioner Vincent. None voting. Nay. Motion carried.

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Commissioner Mitchell stated that Chief Civil Deputy County Attorney Chris Gray noted some language issues with the Tri-Party Signal Agreement Between Gallatin County, Montana Rail Link, and State of MT. Mr. Gray was not in attendance and the Commission was in agreement to a continuance until further notice.

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Gallatin County Fiscal Officer Ed Blackman clarified his comments on the Animal Impound Agreement between the Humane Society and the Sheriff's Office from a memo dated February 1, 2002. Mr. Blackman explained that he had on going discussions with the Sheriff on how to fund an increase in the cost from approximately \$7,100 to \$14,000. He recommended that the Commission sign the agreement after deciding how payment will be made. He noted that contract payments could be made from County contingency within the general fund, fire revenues, unused PILT funds or other sources. In order to cover this for the next two budget years there would have to be an increase in the Sheriff's baseline budgets for the future years as they are obligated to the contract for two years. The Sheriff is unable to absorb this in the current budget. Discussion took place with regards to making changes to the dog ordinance and possibly increasing the fine structure. Sheriff Jim Cashell clarified issues of where they were not credited for fees collected when dogs were being picked up in the past. He stated that they checked into different options and the costs were double, and that they made some changes to the wording of the contract as to how long dogs would be kept in order to keep the costs down. As far as funding, he recommended that they look at the operational money from the Purdy Creek and Fridley Creek fires and the Sept 11th. Discussion followed on possibilities such as holding off on approving the contract in order to give more time to search options, such as increasing fines and changing the ordinance. Sheriff Cashell stated that they have been operating since July 1 on contract extensions and that the Humane Society will not sign another extension. Commissioner Vincent moved to approve the agreement between the Humane Society and the Sheriff's Office, adding that they would revisit and analyze the County Dog Control Ordinance and assess advisability of increasing fines. Seconded by Commissioner Murdock. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a petition to abandon a portion of Sun Field Drive. Notice of this hearing was published in the High Country Independent Press on February 21, 2002, and notice was mailed on February 20, 2002, to all signers of the petition; land owners named on the petition; individuals named in the petition who could be affected; the postmaster of the area; and the Public Lands Access Association. The viewing committee consisted of Commissioner Murdock, Ms. Vance and as a consultant, Gallatin County Road Superintendent Lee Provance. Ms. Vance stated that the portion of the road to be abandoned is adjacent to Lot 1, Block 4 of the Belgrade Commercial Park Subdivision Phase I, and it has not been constructed. No one would become land-locked nor denied access to public lands if the abandonment were granted. She noted that since this is in the Belgrade jurisdictional area, that Belgrade City-County Planner Jason

Karp was asked to comment on the abandonment. In an attached letter to the petition, Mr. Karp responded that the Gallatin County Commission granted preliminary plat approval of the Belgrade Gardens Subdivision that lies east of Belgrade Commercial Park Subdivision Phase I, on April 10, 2001. The new plat eliminates the need for that portion of Sun Field Drive to be extended east of Bullrush Avenue. The design standards of current subdivision regulations recommend avoiding double frontage lots. Requiring that portion of Sun Field Drive to be constructed would be in conflict with subdivision regulations. According to Mr. Karp, and the viewing committee, it would be in the public interest to abandon that portion of Sun Field Drive as requested. There was no public comment. Commissioner Mitchell moved to accept the road committee's report and their recommendation as well as Belgrade's recommendation that it would not be in the public interest to retain this road and that they abandon Sun Field Drive. Seconded by Commissioner Vincent. Commissioner Murdock asked if the motion included, directing the Clerk and Recorder to work with the County Attorney in preparing the resolution for consideration. Commissioner Mitchell amended the motion to include the directive. Commissioner Vincent amended the second. None voting nay. Motion carried.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Noxious Weed District FY 2002 budget to include unrestricted revenues in the amount of \$1,786. Gallatin County Weed Supervisor Dennis Hengel commented that this was a one time appropriation to the weed district's throughout the state from the MDOT, with no strings attached. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-023. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Commissioner Murdock stated that regular agenda Item #3, consideration of a resolution of intent authorizing the Gallatin Gateway Rural Fire District Board of Trustees to use fire impact fees for the purchase of a water tender pursuant to the District Resolution #2001-03, would be continued until March 5, 2002. There was no public comment.

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Commissioner Murdock announced the second reading of an ordinance reducing the speed limit on the unpaved East/West access road between the Trident Clarkston/Logan Road. There was no public comment. Commissioner Vincent moved to adopt Ordinance #2002-01, on second reading. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Commissioner Murdock recommended that they continue the second reading of consideration of amendments to the Gallatin County Dog Control Ordinance. The Commission was in agreement to a continuance until further notice, so they could explore the possibility of changing the amount of fines. There was no public comment.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of the request for final plat approval for C & H Engineering and Surveying, Inc., on behalf of Firelight Meadows LLC. The Commission on March 13, 2001 granted preliminary plat approval. The subdivision was approved as a one lot minor subdivision for the development of 216 multi-family residential condominium units. The development is located in the West Fork Meadows area of Big Sky, approximately 3.5 miles west of the intersection of Highways 191 and 64. Mr. Johnson stated that on February 5, 2002, the Commission considered a request for a traffic mitigation plan agreement, improvements agreement, and final plat approval for the Firelight Meadows Subdivision. The County Commission passed motions approving the traffic mitigation plan and improvements agreement for the subdivision. The Commission denied final plat approval, finding that condition #19 had yet to be complied with. He stated that in support of compliance with condition #19, the applicant has provided a letter from William J. Olson, Chairman of the Big Sky Community Corporation, Properties and Trails Committee. Commissioner Mitchell commented that she received a call from DNRC saying that Firelight Meadows Subdivision had just applied, and it would be some time before they could have their hearing and permit. They also told her if there were houses ready to be sold they would not have water availability. She requested they send a letter with regards to the issue. Mr. Johnson replied that he had not received a letter and was unable to identify the individual who called. He noted that condition was removed, and the applicant can proceed with a certain amount of units without having to obtain the Beneficial Water Use Permit. Mr. Olson summarized his letter for the Commission, stating that Mr.

Pariser, President of Firelight Meadows agreed to help if the committee desired to put the trail in a 100 foot right-of-way on the west side of Ousel Falls Road. They are also working with Firelight Estates to procure an easement on the east side, which they preferred. As a result of that they feel that condition #19 has been satisfied. Mr. Olson thanked everyone for their efforts. A trails plan for Big Sky was discussed. Attorney Mike Lilly, the applicant's representative stated he was available for any questions. Commissioner Vincent moved to grant final plat approval for the Firelight Meadows Subdivision, finding that condition #19 has been met. Seconded by Commissioner Mitchell, noting that she would not support the final plat approval, as she still had questions and was not comfortable that all the conditions have been met. Commissioner Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval by Jason Leep, on behalf of PC Development of the amended plat of the River Rock Major Subdivision - Mobile Home Park, Phase 3A, located in the River Rock Zoning District (formerly the Royal Village Zoning District) and zoned R-MH (Residential Mobile-Home District). The property is located in the SE ¼ and the SW ¼ of Section 3, T1S, R4E, PMM, Gallatin County, Montana; generally located north of Amsterdam Road, approximately two miles west of Belgrade. Phase 3A comprises approximately 10 acres with 53 mobile home lots of the original River Rock Mobile Home Park Major Subdivision originally approved in August 1999. The purpose of the amended plat is to convert the 53 mobile home lots to 53 fee-simple lots so they can be sold and transferred. Ms. Madgic pointed out that impact fees were not originally collected on about 49 of those mobile home parcels, per the impact fee policy and they would now be collected. She briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with suggested conditions. The Commission needs to make the following determination: A determination whether to approve the amended plat. The basis for the Commission's decision shall be whether the preliminary plat of the amended plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations and the River Rock Zoning Regulations. If the County Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant shall obtain approval from the Department of Environmental Quality. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall obtain the Gallatin County Health Officer's approval. 3. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, cul-de-sac easement and certificate prior to final plat approval. 5. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 6. All utility easements shall be shown on the final plat. Utility easements shall be **sixteen (16) feet wide**, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 7. A Memorandum of Understanding shall be signed between the Weed Control District and applicant prior to final plat approval. All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor. 8. Applicant shall record the following covenants with the final plat: a) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* b) *Lot owners and residents of the mobile home park are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical*

sprays and the use of machinery early in the morning and sometimes late into the evening. c) Individual lot access from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations. d) Mobile home stands shall be equipped with anchors and tie-downs in conformance with the Uniform Building Code. e) Each mobile home stand shall be constructed to provide adequate support for placement of each mobile home, including a stabilize sub-base along with an appropriate base material (gravel, concrete, etc) to be approved by the County Road & Bridge Department. f) The property owners' association shall be responsible for maintenance of interior subdivision roads. g) All exterior boundary fences shall be maintained by the property owners' association. h) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission. 9. All ditches shall be protected with minimum 30-foot ditch maintenance easements and shown on the final plat(s). 10. Applicant shall make payment of road impact fees in accordance with the Subdivision Regulations. 11. Applicant shall make payment of fire protection impact fees in accordance with the Subdivision Regulations. 12. All requirements of the Belgrade Rural Fire District shall be met prior to final plat approval, including: 1. A copy of the final subdivision plat shall be provided to the District; 2. Payment of fire impact fees; 3. Retesting of the Fire Protection Water Supply by the District. 13. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Madgic stated that there was one change to condition #6 to read as follows: All utility easements shall be shown on the final plat. Utility easement shall be sixteen (16) feet wide, and be located along the property lines. Jason Leep, representing Potter-Clinton Development gave a brief presentation of the application. He pointed out that this is the first of 4 independent stand-alone steps that are working towards a common goal. He explained the purpose of the amendment was due to the change in financing, which makes this more cost effective and provides a better form of home ownership. The Commission commended the River Rock project. Commissioner Vincent moved to grant preliminary plat approval of the amended plat of the River Rock Major Subdivision, finding that it meets the criteria addressed under the regulations, the Growth Policy Plan and State Statute, with the amendment to condition #6, (striking 20 feet and inserting 16 feet). Seconded by Commissioner Mitchell, adding that it meets the River Rock Zoning Regulations. None voting nay. Motion carried.

Gallatin County Planner Jennifer Madgic reported on the consideration of a request for preliminary plat approval by Rocky Mountain Engineers, on behalf of Ronald Laden and Toney Bishop of the amended plat of Lot 10 of the Shakira Subdivision, located in the NE ¼ of Section 29, T1S, R5E, PMM, Gallatin County, Montana. The subdivision is generally located southwest of the intersection of Valley Center Road and Harper Puckett Road. The property is located in the Gallatin County/Bozeman Area Zoning District - Planning Jurisdiction. Although the property is not zoned, its land use classification is Rural Residential, which allows a standard density of one unit per 20 acres, or higher density through bonuses achieved through PUD review or cluster option. The subdivision, consisting of 10 lots, was originally approved in February 1999. The purpose of the amendment is to change the existing building envelope from the northwest corner of Lot 10 to the southeast corner. The correction is being requested by prospective buyer Toney Bishop who desires street frontage off Harper Puckett Road instead of Valley Center Road, which is slated for future improvements. Ms. Madgic briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with suggested conditions. The Commission needs to make the following determination: A determination as to whether to approve the proposed correction. Amendments to final plats that in the Commission's opinion will not materially alter the plat may be made by the submission of a corrected final plat for the Commission's approval. If the Commission decides to approve the proposed amended plat, the following conditions are recommended: 1. Applicant shall file an amended plat with the Clerk and Recorder's Office with the revised one-acre building envelope. 2. Applicant shall obtain an encroachment permit from the Gallatin County Road & Bridge Department for access to the relocated building envelope. 3. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval(s). 4. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 5. Applicant shall record the following covenants on or with the final plat: a) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* 6. The revised plat shall include a minimum 35-foot stream setback

protecting Aajker Creek from the mean high water mark, which shall not be located within the proposed building envelope. The following statement shall appear on the final plat or recorded as a covenant with the subject amended plat: *No newly constructed structure, addition to an existing structure, parking lot or other similar improvements shall be located closer than 35 feet to the mean high water mark of Aajker Creek.* Ms. Madgic explained that Lot 10 was designed for open space with the building envelope in the northwest corner. Although, staff had no problem with the change, she was concerned about Aajker Creek and the fact that the building envelope was being placed over the creek, giving the appearance that the creek was part of the building envelope. After speaking with Ray Center of Rocky Mountain Engineering, an alternative design was submitted, Exhibit "A". The alternative design splits the building envelope into two separate building envelopes, excluding the creek. She stated that staff prefers Exhibit "A". Notice of this hearing was published on January 31, and February 7, 2002 in the High Country Independent Press and certified mail was sent to adjacent property owners. The Planning Department received some inquiries regarding location of the proposed building envelope although there were no major concerns. Discussion took place with regards to the applicant's plans for the building envelopes, open space and the trail easement on Aajker Creek that was to be marked for future connection to a possible trail plan. Ray Center, with Rocky Mountain Engineering gave a brief overview of the proposal and the buyer's intentions for the building envelopes. He pointed out that the covenants state that Lot 10 may be split, and they can also construct buildings for livestock or equipment shelter. Commissioner Murdock asked if the Aajker Creek corridor was delineated with signs. Mr. Lee stated that a 20 foot easement for public utilities appeared on the original plat and within that is a 5 foot wide public trail easement which connects with the open space on the east side of Lot 10, along Harper Puckett. He noted that there are some small signs on wooded posts delineating the trail easement. Toney Bishop commented on the building envelopes with regard to putting agricultural buildings and odors separate from the residential sites. He pointed out where the trail is marked on the plat map. Commissioner Murdock stated that he was in favor of Exhibit "A", although the applicant does not need to identify a building envelope on the open space tract and by doing so they are voluntarily limiting to where they will build. Commissioner Mitchell moved to amend Lot 10, per Exhibit "A", as provided by the applicant on the Shakira Subdivision, finding that it meets the basic intent; the Subdivision Regulations; that it will not materially alter the plat; and with the conditions #1 through 6, as provided by staff. Seconded by Commissioner Vincent. Mr. Bishop was in agreement with the Commission's decision. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for preliminary plat approval of the Strang Minor Subdivision, described as COS 2221, located in the SW ¼ of Section 29, T2S, R5E, PMM, Gallatin County, Montana. Donald and Annabelle Strang, represented by Donald White requested approval to subdivide ~28-acres into two residential lots. The property is generally located at the intersection of Gooch Hill Road and Gant Road. Proposed Lot 1 (~24-acres) is north of Gant Road; Proposed Lot 2 (~24-acres) is south of Gant Road. Ms. Koozer provided a vicinity map of the area for the Commission. Ms. Koozer noted that a family transfer was approved on this property in February 2001, and less than a month after the family transfer was approved and recorded the parcel was listed for sale. There were concerns about the legitimacy of the family transfer exemption use, so the Strang's were encouraged to go through proper subdivision review. The parcel is not zoned, and is located just outside the "Donut" master plan area. The property to the south appears to be accessed by an easement over proposed Lot 2, and there is a suggested condition that it be retained. Planning Board considered the proposal in a public hearing on February 12, 2002. Board members expressed concern about issues raised in letters from neighbors. Planning Board found that the proposal did not provide enough information and voted unanimously to make no formal recommendation. Three letters were received expressing concern about the proposal. Neighbors note that Lot 2 is a former gravel pit which may contain hazardous waste and unstable soil, and that the riparian area serves as a wildlife habitat. Concerns were also raised about septic contamination. She noted that there did not appear to be any conflicts with the County Plan. Ms. Koozer briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with suggested conditions. The County Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of: The Montana Subdivision and Platting Act; The Gallatin County Subdivision Regulations; and The Gallatin County Plan. If the Commission finds that the subdivision meets the requirements above and approves the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval: a. Restrictive and protective covenants encumbering the real property contained within the subdivision. b. Certificate of a licensed title abstractor. 3. Applicant shall record on the final

plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, and the creation of a sewer and/or water district. 4. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 5.A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. 6. Final plat shall include surveyed ground elevations at the appropriate contour interval as required by Section 5.C.7 of the Gallatin County Subdivision Regulations. 7. For Lot 2, a geotechnical analysis shall be performed by a licensed engineer. a. Such geotechnical analysis shall: i. Identify any grading and/or compacting necessary to create a safe building envelope and driveway. ii. Identify a building envelope as follows: 1. The building envelope and driveway shall be sited in a location that does not present hazards with respect to soil stability and compaction. 2. The building envelope shall be located at least 35 feet from any watercourse. 3. No portion of the building envelope shall be located on a grade steeper than 15%. b. If the geotechnical analysis does identify any grading and/or compacting necessary to create a safe building envelope, such grading and/or compacting shall be completed. Applicant shall provide written confirmation from the engineer performing the geotechnical analysis that such grading and/or compacting has been properly completed. 8. Final plat shall include a building envelope for Lot 2 and a notation prohibiting any structures outside the designated building envelope. a. The building envelope and driveway shall be sited in a location that does not present hazards with respect to soil stability and compaction, based on the recommendations of a licensed engineer. b. The building envelope shall be located at least 35 feet from any watercourse. c. No portion of the building envelope shall be located on a grade steeper than 15%. 9. Final plat shall show all watercourses, and for each watercourse shall include: a. An irrigation maintenance easement of at least 20 feet in width (at least 15 feet on one side; at least 5 feet on the other side). b. A building setback of at least 35 feet from the ordinary high water mark. 10. Applicant shall record the following covenants on or with the final plat(s): a) *The control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice Gallatin County may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* c) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* e) *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3.* f) *All construction shall be completed in accordance with best management practices to prevent erosion and watercourse sedimentation.* g) *Any septic system for Lot 1 shall be located in accordance with Department of Environmental Quality approval for the Strang Minor Subdivision.* h) *Lot owners acknowledge that anecdotal evidence suggests a potential for hazardous waste due to the site's former use as a gravel pit and shall hold Gallatin County harmless from any liability relating to such.* i) *Lot owners acknowledge and affirm the rights of agricultural water users and the jurisdiction of applicable federal, state and local agencies with respect to activities within all watercourses.* j) *Lot owners shall not interfere with agricultural water user facilities nor remove water without deeded water rights approved by the Montana Department of Natural Resources and Conservation.* k) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 11. Final plat shall include a "no access strip" along all lot boundaries that border County-maintained roads. 12. Final plat shall show all existing access easements. 13. Lot 1 shall be accessed from the existing approach that provides access to the property to the south. From Gooch Hill Road to the point at which the two approaches split at a "Y," the shared approach shall be designated as a public easement, and shall be constructed to a 22-foot gravel width. Applicant shall provide written confirmation from the County Road Department that this condition has been satisfied. 14. For Gooch Hill Road, 45 feet of right-of-way east of centerline shall be dedicated to the public for the entire length of the development. 15. For Gant Road, 60 feet of right-of-way shall be dedicated to the public for the entire length of the development. 16. Applicant shall pay road impact fees per the Gallatin County Road

Impact Fee standards. 17. All areas of the public right-of-way disturbed during construction activities shall be sodded or reseeded. 18. Applicant shall pay fire impact fees in accordance with the Gallatin County Subdivision Regulations. 19. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Rae Volunteer Fire Department or applicable Fire Protection Agency Having Jurisdiction (FPAHJ). Applicant shall provide written verification from the Rae Fire Department or applicable FPAHJ that all fire protection requirements have been satisfied. 20. Applicant shall provide a mitigation plan for sheriff services that is acceptable to the County Commission. 21. Applicant shall have up to three (3) years to complete the above conditions and apply for final plat approval. Ms. Koozer made changes to conditions #10(g) and 13, by changing it to read Lot 2, rather than Lot 1. Commissioner Murdock acknowledged letters from the following: Cindy Hoschouer; Ben and Lucille TeSelle; and Daniel R. TeSelle. Attorney Don White, the applicant's representative submitted an ariel photo, Exhibit "A", and a photo copy of the proposed layout of Tract 2, Exhibit "B". He commented that there was confusion on the Planning Board's part as to why this came to the Commission without a recommendation. Mr. White gave a brief history of the property. He also, referred to the lease that the County had on Tract 2, for gravel and the comments made with regard to this area being used to dispose of oil. He stated that he had the Road Department do some research and it was disclosed that this area had not been used since 1974 for gravel and they were not aware of any oil being dumped. He submitted (4) photos showing the topography of the building site area and where the gravel was taken from, numbered 1, 3, 4 and 6, and labeled Exhibit "C". He stated that they were in disagreement with the geotechnical analysis and requested that condition #20, requiring a mitigation plan for sheriff services, be waived. Mark Westergaard spoke regarding the site evaluation that was conducted to determine if the site falls within DEQ guidelines for sewer and water systems. Mr. Westergaard determined the area contained alluvium based soils that were well drained; dense; not a fill site; and not associated with slope failures. He concluded that the concerns raised in the letters did not exist on the area that was evaluated. Discussion took place regarding the geotechnical analysis and the well site relative to the drain field. Public comment: Dan TeSelle commented regarding his concerns with the gravel pit and knowledge of the oil that was drained in the pit by the County, noting that the County may be concerned with liability issues. He noted several loads of fill hauled in by a neighboring resident and dumped on the proposed building site. In closing, Mr. White commented that this is not a site identified by the County for potential problems or clean up. The Commission discussed the County's liability and the geotechnical analysis. Commissioner Murdock commented that he shared Mr. TeSelle's concerns, although the area is not zoned and when going through the proper process, the Commission relies on site evaluators, engineers and DEQ as to whether it is acceptable for a homesite. The Commission discussed that there were a lot of factors to consider for this proposal and requested a continuance and permission to walk the property. Ms. Koozer stated that she had a statement signed by Mr. White granting an extension if needed. Mr. White was in agreement to the continuance until March 5, 2002, giving the Commission permission to walk the site. The Commission requested that staff ask Environmental Health if they had any comments on this site. Commissioner Murdock asked if the applicant would reconsider the proposed building site and suggested checking to see if there was anyway to mitigate the neighbors concerns.

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Gallatin County Planner Jennifer Koozer reported on the consideration of a request for preliminary plat approval by Gaston Engineering and Surveying, Inc., on behalf of George and Gladys Frey to subdivide a ~24-acre lot into five lots. The Frey Subsequent Minor Subdivision (Amended Plat of Lot 1, Glidden Minor Subdivision No. 122), is located in the SE ¼ and SW ¼ of Section 35, T2N, R1E, PMM, Gallatin County, Montana, and generally located south of Three Forks on the Old Yellowstone Trail (Highway 287 aka 205). Ms. Koozer provided a vicinity map of the area for the Commission. Planning Board considered the proposal in a public hearing on February 12, 2002. Board members expressed concern about high groundwater, potential flooding, and the site's proximity to the Three Forks airport. Planning Board found the proposal to be in substantial compliance with the Gallatin County Plan, Gallatin County Subdivision Regulations and the Montana Subdivision and Platting Act. They voted unanimously to recommend approval, subject to the staff suggested conditions, with clarification of conditions regarding finished floor elevations and with a covenant acknowledging the site's proximity to the airport. Ms. Koozer noted that there did not appear to be any conflicts with the County Plan. She noted that the 1984 FEMA floodplain maps designate this site as a "C-areas of minimal flooding" and "D-areas of undetermined, but possible flood hazards." Because of the potential for water levels in this area to rise during a flood event, staff and Planning Board recommended conditions to mitigate potential hazards, notify future property owners and indemnify Gallatin County. Ms. Koozer briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with suggested conditions. The County Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of: The Montana Subdivision and Platting

Act; The Gallatin County Subdivision Regulations; and The Gallatin County Plan. If the Commission finds that the subdivision meets the requirements above and approves the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 3. A property owners' association shall be established and incorporated. 4. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval: a. Articles of organization and/or incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the property owners' association. c. Restrictive and protective covenants encumbering the real property contained within the subdivision. d. Certificate of a licensed title abstractor. 5. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, and the creation of a sewer and/or water district. 6. Applicant shall dedicate to Gallatin County a cash or land donation that satisfies the park dedication requirements under the Gallatin County Subdivision Regulations. 7. The final plat shall include surveyed ground elevations at one-foot contours and notations indicating that the subdivision is located in an area with flood potential, designated on FEMA floodplain maps as "C— areas of minimal flooding" and "D"— areas of undetermined, but possible, flood hazards" and that lot owners hold Gallatin County harmless with respect to potential flooding. 8. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 9. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval(s). 10. Applicant shall record the following covenants on or with the final plat(s): a) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* c) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* e) *The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads.* f) *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Protection Codes.* g) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 11. All road names for interior roads must be approved by the County GIS office. 12. A detailed signage and drainage plan shall be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as "stop" sign(s) at all intersections with County maintained roads. "Stop" signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 13. Encroachment permit(s) for any new access points shall be obtained from the Montana Department of Transportation (MDT). 14. The final plat shall include a "no access strip" along all lot boundaries that border MDT-maintained roads. Exception to this will be made only for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from MDT. 15. All interior roads must be built to County gravel standards and have a 60-foot right-of-way, dedicated to the public, unless other County road standards apply. 16. A cul-de-sac, built to County standards and acceptable to the local Fire District, will be required at the northwest end of Wekunni Lane. 17. A pre-construction

meeting shall be set with the County Road Department prior to the start of any construction. 18. All roadwork shall be built to Montana Public Works Standard Specifications (4th Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certification must be provided to the County Road Department in writing. Final approval will not be given until this documentation is received. 19. A copy of the Homeowners' Association bylaws is required to be submitted to the County Road Department prior to final approval. 20. All areas of the public right-of-way disturbed during construction activities shall be sodded or reseeded. 21. Applicant shall pay road impact fees per the Gallatin County Road Impact Fee standards. 22. The final plat(s) shall contain a statement requiring lot accesses be built to Gallatin County Subdivision Regulation standards. 23. To provide for the required 80-foot right of way on arterials, the final plat shall designate any additional right-of-way on Old Yellowstone Trail that is necessary to establish at least 40 feet of right-of-way west of the centerline for the entire length of the subdivision. Any such additional right-of-way shall be dedicated to the public. 24. The preliminary plat application shall be submitted to Montana Department of Transportation for their review and determination regarding any necessary improvements to Old Yellowstone Trail (Highway 287 aka 205). Applicant shall document participation in a Memorandum of Understanding with MDT regarding any improvements, or shall provide documentation that improvements are not required. 25. Applicant shall pay fire impact fees in accordance with the Gallatin County Subdivision Regulations. 26. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Three Forks Volunteer Fire Department. Applicant shall provide written verification that all fire department requirements have been met. 27. Applicant's shall provide a mitigation plan for sheriff services that is acceptable to the County Commission. 28. Applicant shall have up to three (3) years to complete these conditions and apply for final plat approval. 29. A benchmark shall be placed on-site which represents the highest elevation at which groundwater would be expected during a flood event, based on the calculations of a licensed engineer. Final plat shall indicate the location of such benchmark, and shall include the following notations: a. All finished floor elevations shall be at least two feet above the flood elevation benchmark. b. No fill for the construction of structures shall be placed in any area below the flood elevation benchmark, except within designated building envelopes. 30. For any lot that includes land below the flood elevation benchmark, a one-acre building envelope may be designated on the final plat. Location of such building envelope shall be approved by the County Floodplain Administrator prior to application for final plat approval. 31. Applicant shall record the following covenant on or with the final plat(s): Lot owners are informed that an airport exists adjacent to the subdivision. Lot owners and users of the subdivision are aware of its proximity to the airport and that the area is subject to frequent low level aircraft overflight and noise associated with aircraft operations and shall waive all rights to protest about aircraft and airspace use and shall affirm the aviation industry, both public and private, the right to fly. Lot owners hold Gallatin County harmless with respect to aircraft operations. Discussion took place with regard to requesting the applicant to waive the right to protest the creation of the proposed airport influence zone. The applicant's representative Dennis Foreman, of Gaston Engineering stated that they reviewed all the proposed conditions and they were in agreement, except for condition #27, requesting mitigation of sheriff services. He asked the Commission to consider removing condition #27. George Frey stated that the aircraft would not be coming in directly over the proposed lots, although he did not have a problem waiving the right to protest the creation of the airport influence zone. Mr. Foreman added that he did not believe there would be a problem with putting height restrictions on the buildings. He noted that they have monitored the ground water on all of the lots for a year to establish adequate sites for building sites, septic and drainfields, finding adequate sites. There was no public comment. Commissioner Murdock suggested adding the following condition and inserting it in place of proposed condition #27: The applicant shall waive their right to protest inclusion/creation of an airport influence zone. Commissioner Vincent moved to approve the application for the Glidden Minor Subdivision, striking condition #27 as currently written, and inserting in its place, "The applicant shall waive their right to protest inclusion/creation of an airport influence zone", and finding that the application is consistent with the Gallatin County Subdivision Regulations and the Master Plan. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Ms. Koozer noted there was an addendum adding condition #32, and she wanted to confirm that it was to be included. Commissioner Murdock reopened the Glidden Minor Subdivision hearing. Condition #32 read as follows: Applicant shall provide a wetlands investigation completed by a certified consultant, using the US Army Corps of Engineers' Wetlands Manual. If the investigation indicates the presence of wetlands, a wetlands delineation shall be shown on the final plat. If any construction or changes are proposed which require a 404 Permit, the subdivider shall provide evidence of such permit to the Planning Department. The applicant concurred with the condition. Commissioner Vincent moved to add condition #32 as read into the record, to the motion granting approval. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Planner Jennifer Koozer reported on the consideration of a request for preliminary plat approval by Allied Engineering Services, Inc., on behalf of William Joseph Heap for the Buffalo Station Minor Subdivision to subdivide a ~9-acre parcel into two lots (one ~8-acre commercial lot and one ~1-acre residential lot). The property is described as the S ½ S ½ SW ¼ SE ¼, Section 11, T3S, R4E, PMM, Gallatin County, Montana and generally located at the intersection of Cottonwood Road (State Secondary Highway #345) and Gallatin Road (Highway 191). Ms. Koozer provided a vicinity map of the area for the Commission. The applicant requested a variance from the Section 7.E.1 of the Gallatin County Subdivision Regulations, which provides standards for right-of-way width on arterial roads such as Cottonwood Road. In outlining the history of the property, it was noted that both proposed lots are already developed. Tract 1 contains the Buffalo Station gas station/bar/restaurant. Tract 2 contains a single family residence. The parcel is not zoned. The applicant requested a variance from Section 7.E.1 of the Gallatin County Subdivision Regulations, which provides standards for right-of-way width on arterial roads such as Cottonwood Road. Cottonwood Road is properly classified as an "arterial". Under Section 7.E.1, an arterial road is defined as "a road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing limited access to adjacent land. Generally, arterials are secondary state highways". Based on this standard, Cottonwood Road (State Secondary Highway #345), is an arterial road. Under Section 7.E.1, "primary and community arterial roads shall have a minimum 80-foot wide right-of-way and meet such other design standards as may be required by the Commission". Discussion took place with regard to the existing right-of-way width, the minimum required, the Road Department's recommendation and the applicant's requested variance. The applicant has indicated that the required right-of-way dedication would be a hardship because Buffalo Station's "underground fuel tanks, canopy and pumps are 32 feet from the current south property line". Planning Board considered the proposal in a public hearing on February 12, 2002. Planning Board found that the applicant faced an undue hardship and that compliance was not essential to the public health, safety and welfare and voted 6:1 to recommend approval of the variance. The Planning Board found the subdivision to be in substantial compliance with the Gallatin County Plan, Gallatin County Subdivision Regulations and the Montana Subdivision and Platting Act, and voted 7:0 to recommend approval of the subdivision, subject to the staff suggested conditions with the exception of the Road Department's recommendation that Cottonwood Road be paved. Ms. Koozer noted that there did not appear to be any conflicts with the County Plan. Ms. Koozer briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with suggested conditions. The County Commission has two determinations to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of: The Montana Subdivision and Platting Act; The Gallatin County Subdivision Regulations; and The Gallatin County Plan; and a determination as to whether the requested variance from Section 7.E.1 of the Gallatin County Subdivision Regulations should be approved. The basis for the County Commission's decision shall be whether "strict compliance would result in undue hardship and such strict compliance is not essential to the public health, safety and general welfare". If the Commission finds that the subdivision meets the requirements above and approves the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. The final plat shall include the authorized consent of the mortgagee for the "mortgage survey" (M-50), or the final plat application shall be accompanied by written confirmation from the lender that the mortgage has been paid in full. 3. The subdivision shall be reviewed and approved under the Montana Sanitation in Subdivisions Act. Applicant shall provide documentation of approval. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall obtain the Gallatin County Health Officer's approval. 4. A Property Owners' Association shall be established for the subdivision. 5. Applicant shall record the following covenants with the final plat: *a. The property owner shall be responsible for the control of County-declared noxious weeds. b. The control of noxious weeds by the Property Owners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. c. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Property Owners' Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. d.*

Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. e. All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. f. The maintenance of all exterior boundary fences shall be shared equally with

adjacent property owners. g. All structures shall be constructed in compliance with the National Fire Protection codes and in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3. h. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners and the County Commission. 6. A copy of the conditions of approval, property owners' association articles of incorporation and bylaws, covenants and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the required documents prior to final plat approval. 7. The final plat shall show all utility easements. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 8. The preliminary plat application shall be submitted to Montana Department of Transportation for their review and determination regarding any necessary improvements to Highway 191. Applicant shall document participation in a Memorandum of Understanding with MDT regarding any improvements, or shall provide documentation that improvements are not required. 9. If any new approaches or changes in existing approaches for access points off County-maintained roads are to be included, the applicant shall obtain encroachment permits from the County GIS Department. Each such access shall be at least 75 feet from the nearest intersecting County road. 10. The final plat shall include a "no access" strip along all lot boundaries that border County-maintained roads. 11. From the edge of the existing pavement to the easternmost property line, Cottonwood Road shall be paved to County standards with a 30-foot width of at least 3 inches depth 1-inch crushed road mix, topped with a 28-foot width of at least 3-inch hot mix asphalt pavement. ***(Note: The Road Department, recommended this condition; however, the Planning Board recommended that it not be required.)*** 12. A pre-construction meeting shall be set with the County Road Department prior to the start of any construction. 13. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing. Confirmation of the Road Department's approval shall be provided to the Planning Department. 14. With respect to paving of County-maintained roads, a 2-year written warranty, from the contractor, shall be required. This warranty shall be submitted to the County Road Department prior to final approval. Striping shall be completed after the paving of any County-maintained roadway. 15. Forty-five feet of Cottonwood Road north of the centerline shall be dedicated to the public for the entire length of the development. ***(Note: the applicant has requested a variance from this requirement, and has proposed that 30 feet of Cottonwood be dedicated. The Road Department does not support the variance request; however, the Planning Board recommended approval of the variance.)*** 16. The final plat shall include a waiver of right to protest creation of future rural improvement districts, local improvement districts, and sewer and water districts. 17. All areas of the public right-of-way disturbed during construction activities shall be sodded or reseeded to the satisfaction of the County Road Department. 18. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 19. Applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. 20. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Gallatin Gateway Volunteer Fire Department. Applicant shall provide written verification from the Gallatin Gateway Volunteer Fire Department that all requirements have been met. 21. Applicant shall provide a mitigation plan for Sheriff services that is acceptable to the County Commission. 22. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. 23. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. The applicant's representative Terry Threlkeld, with Allied Engineering encouraged the Commission to not only consider this as a minor subdivision but also as a correction survey. The reason for that was because there was a mortgage survey performed a number of years ago and the applicant assumed the mortgage survey was an actual land division. He in turn entered into a contract to sell the portion with the Buffalo Station and found they were not separate. The Buffalo Station did not contemplate going through subdivision review, however when they were developing the site even though there was no zoning they asked the Road Department staff to assist them in determining where the tanks, canopies and pumps should be located in light of future right-of-way to be acquired by Gallatin County. Former Gallatin County Engineer Roy Steiner assisted them in those determinations by staking out a line 30 feet from the property line with the idea that they would have 60 feet of right-of-way. They now have a situation where they have approximately 32 feet from the edge of the property line to the gas pumps, a canopy and underground storage tanks. He noted that now the Road Department was adamant about obtaining the additional right-of-way even when it was pointed out that it would entail Gallatin County owning the gas pumps, canopies and portions of underground storage tanks. Mr. Threlkeld stated that the applicant acted in good faith and to give the right-of-way would be a hardship. Commissioner Mitchell questioned the probability of the applicant purchasing the additional 10 feet across

the road from neighboring properties. Operator and lessee of the Buffalo Station, Larry Berg stated that approximately 2 years ago he entered into an agreement with Joe Heap to lease the property with the option to purchase. When it came time to purchase the 8.9 acres of which the Buffalo Station is located, they discovered it was still a 10-acre parcel. He commented regarding his knowledge of the easement and Mr. Steiner's determination of where to place the pumps, canopies and underground tanks. He stated that at this time there were no plans for the additional acreage, although he would not have a problem with paving of the road once they make that decision. He did not see a reason for Mr. Heap to pave the road in order to sell the property. In addition, Mr. Threlkeld requested that they have the Commission's confirmation that they would not have to pay impact fees because of the two existing structures. Gallatin County Road and Bridge Superintendent Lee Provance commented that the request was a minimum of 80 feet, not a maximum, and that it was not a new procedure. He implied that it was necessary; because once you add additional turns or lanes of any type you need additional right-of-way to avoid damaging property when plowing snow. He stated that the applicant was told 45 feet by Mr. Steiner, not 30 feet; they were given 2 encroachments, and they took 3; and they were to improve the road to county standard, and they did not; they did not shoulder the road or improve the ditch line to the current county standard; the paving was done without the permission of the county and without an improvements agreement with the developer; and the road was closed without the Commission's permission. He noted that the county has had to make these adjustments. Mr. Provance recommended that the Commission require the 45 feet for the right-of-way, as they will need it for future use and this is the only section where they lack right-of-way. Commissioner Vincent questioned what legal standing the County would have relative to what might go wrong within the right-of-way, utilizing the canopy, pump or tank. Mr. Provance suggested the possibility of allowing any portion of the pumps, tanks or canopy that might be on the 45 feet, to exist until such time that they replace, remove or remodel. Commissioner Murdock asked if they could include a covenant to read as follows: "No further structures shall be built on the remaining portion of this property, without the counties consent, which will be contingent upon paving the rest of the road." Mr. Provance believed that if the applicant developed the other portion that he should not be required to pave that road unless he applied for an encroachment permit, and if he wanted to use the existing encroachments for the Buffalo Station, there was no need for him to pave it. Mr. Berg reiterated that they took the advice of Mr. Steiner regarding the easement and relied on that information. Commissioner Mitchell noted that this business is at critical location and was concerned with the public health and safety. She was concerned with having adequate right-of-way for the future. Commissioner Vincent concurred and stated that the paving stipulation was more than adequate at this point, unless any future development or any encroachments occur, then it should be paved. Commissioner Murdock stated that he was opposed to 45 feet, because there was clearly a dispute of facts. He believed that it would create an undue hardship on the developer to require more, although he wanted to get as much right-of-way as possible. Commissioner Vincent requested an explanation as to why establishing 45 feet of right-of-way would in and of itself constitute a hardship on the developer. Mr. Threlkeld commented that even more important than the hardship, is the liability the county would incur with the underground storage tanks, pumps and canopies. He noted that in good faith they got input from the county, and this would be a huge financial hardship to relocate the tanks. The solution would be for Mr. Berg to buy Mr. Heap's house and then the county would have no right-of-way. Commissioner Vincent discussed the question of liability to the county and/or would it necessitate the applicant to move anything. He believed it would be unreasonable to require the applicant to dig up tanks to change the configuration, but he was not so sure that would be required if the 45 feet were established. Mr. Threlkeld questioned why they were requiring that much right-of-way. Mr. Provance noted there were variances currently written for situation such as this one. Commissioner Mitchell concurred with Commissioner Vincent and stated that she too, would be for finding out about the counties liability and if it would necessitate the applicant moving anything in order to obtain the right-of-way. The Commission was in agreement to a continuance until March 5, 2002. Commissioner Vincent requested answers to the liability question in regard to the situation with tanks, canopies and gas pumps within a county right-of-way, and wanted to make sure that it could be done without requesting the applicant to change anything on site at this time. He stated that he felt comfortable saying that if the liability is non-existent or minimal and if it doesn't mean the developer would have to make any infrastructure changes on site, then he would be in agreement.

Commissioner Mitchell moved to approve pending Resolution #2002-024, to annex property into the Gallatin Canyon Consolidated Rural Fire District. Seconded by Commissioner Vincent. None voting nay. Motion carried.

There being no further business the meeting was adjourned at 12:50 P.M.

14 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 47

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 5th DAY OF MARCH 2002

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

FEBRUARY 25, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Chief Deputy County Attorney Chris Gray and Commission secretary Glenda Noyes. The Commissioners discussed and considered approval of the Zoot loan document signing. The loan has been approved, but the documents have been fully negotiated. However, authorization can be given for the signing of the completed documents, contingent upon Mr. Gray's approval. Commissioner Mitchell made a motion to allow any available County Commissioner to sign the Zoot loan documents upon their completion. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a flood plain administration contract. Lanette Windemaker joined the meeting for this discussion and presented the contract. Commissioner Mitchell made a motion to approve said contract, pending Finance Officer Ed Blackman's approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

- The Commissioners attended a regularly scheduled Personnel Monthly meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, and Human Resources Director Randy Kuyath. The Commissioners discussed the title, position, and salary of Commission secretary Glenda Noyes. Commissioner Vincent made a motion to change Ms. Noyes's title to Executive Assistant, and add the language "Under the supervision of the Commissioners, the Executive Assistant shall (as necessary, but especially in the absence of the Executive Secretary) perform those secretarial functions essential to the efficient and orderly operation of the office." Commissioner Murdock seconded the motion. Commissioners Murdock and Vincent voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

FEBRUARY 26, 2002

- The Commissioners attended a special meeting for the purpose of approving claims listed on the voucher list dated February 22, 2002. In attendance were Commissioners Mitchell and Vincent, Auditor Joyce Schmidt, and Commission secretary Glenda Noyes. Commissioner Vincent made a motion to approve claims including check numbers 8008362-8008364, totaling \$1,098.36. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

FEBRUARY 27-28, 2002

- The Commissioners conducted regular County business.

MARCH 1, 2002

- The Commissioners attended a special meeting for the purpose of discussing appointment to the City Planning Board. In attendance were Commissioners Murdock, Mitchell, and Vincent, and County Attorney Marty Lambert. The Commission discussed with Mr. Lambert the matter of the Bozeman City Mayor's refusal to appoint Mark Evans, the County's designee, to the City Planning Board. After discussion, the Commission unanimously directed the County Attorney bring an appropriate legal action in District Court to determine whether Sec. 76-1-223, MCA, gives the Mayor the discretion to refuse to appoint the person designated by the County Commission.
- The Commissioners attended a special meeting for the purpose of approving a grant application for software for the Detention Center. In attendance were Commissioners Murdock, Mitchell, and Vincent, Grants Administrator Larry Watson, Fiscal Officer Ed Blackman, Bruce Cunningham, Court Administrator Dorothy Bradley, and Commission assistant Glenda Noyes. The Detention Center's software system does not have the management/analytical software to meld with the county and state systems. Montana Board of Crime Control is covering a lot of the funding, but it isn't enough to cover the whole purchase. This purchase will allow the Detention Center to get up to speed without expensive interfaces. The total cost for training, equipment, and software is \$107,000. The County is responsible for covering \$58,000. Commissioner Mitchell made a motion

to approve a grant application to Montana Board of Crime Control, for training, software, and hardware necessary for updating the Detention Center system. Commissioner Vincent seconded the motion. In discussion it was noted that the County will have to come up with \$58,000 contribution if the grant is awarded. All voted aye. Motion carried unanimously.

- The Commissioners attended a special meeting for the purpose of discussing the Day Ranch proposal. In attendance were Commissioners Murdock, Mitchell and Vincent, Chief Deputy County Attorney Chris Gray, Attorney Holly Brown, Attorney Steve Barrett, Mark Haggerty (Greater Yellowstone Coalition) and Dick Dolan, Attorney for Greater Yellowstone Coalition. The discussions were subject to 408 rules of evidence, and not said subject to litigation. Mr. Barrett explained that the developer is attempting to reconfigure the proposal based on the denial of preliminary plat approval. Currently the property is divided into 20-acre parcels, the rest is in excess of 160 acres or was previously divided. Originally the proposal was for 114 single-family units, 3 lots containing 30 condominiums for a total of 144 housing units. The current proposal is for 28 single-family lots and 50 – 60 cabins, for a total of 80-85 units. This is approximately 1/3 less than the original design of the project and approximately 50% reduction in water consumption. Covenants placed on the property would not allow for any further subdividing of the property except what the law allows for already, and would require each unit to be a single family dwelling. The homes would be isolated from view, as they attempted to avoid all ridgeline construction – and this would be included into the covenants as well. The cabins would be internal use dwellings, part of a “dude ranch” for the golf course. The developer is proposing stringent covenants such as no recreational motorized vehicles, no internal fencing on lot by lot basis, fencing on the building envelope only (unless on 20 acre lots), existing barbed wire to be changed to more animal friendly fencing, the current cattle ranch will remain, running cattle on 120 acres and working with Kurt Alt and FWP on the number of cattle in order to not crowd the riparian areas. Covenants will also include centralized weed control, and allow only equestrian, cross-country, and hiking trail recreation. Open space would be 85% without the golf course and 90% with it included. The current onsite ranch manager will stay on to manage the cattle ranch. The entrance to the development will duplicate the original entrance to Yellowstone Park. Mr. Barrett stated that this is a good product that the developer is trying to sell, and they believe they can do what they are proposing with or without the Commission’s blessing. He explained that the developer would like to take the 160 acres designated for the cabins and turn them into condos, allowing the conveying of ownership. If the Commission agrees to approve the condos rather than cabins, the developer will agree to pave all of the interior roads, rather than Axtell Anceny, and approve a gravel road to the 20-acre parcels on the ridge. The developer suggests that this concept would preserve what everyone values, the ridgeline views and agriculture. A contract would be put in place with anyone affected by the draw down of water, allowing them to use surface water, and a Water Officer would monitor the wells that would serve the Club House, golf course, and cabins. Each of the houses would have individual water and septic systems. Mr. Barrett noted that DEQ and DNRC applications have been filed. The attendees of the meeting took no action; purpose of meeting was informational only.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated February 28, 2002 in the amount of \$224,678.41.
2. Consideration of Contract(s): TB Grant Task Order 01-07-4-11-041-0, Contract 1999-021; STD/HIV Task Order 01-07-4-51-104-0, Contract 1999-021; and Bailing Paving, Inc. RID Crack Seal Program, Change Order #3.

Commissioner Murdock announced that regular agenda Item #1, the Strang Minor Subdivision had been continued at the request of the developer, until March 12, 2002.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Mitchell moved to approve the consent agenda, as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Planner Jennifer Koozer reported on the continuation of consideration of a request for preliminary plat approval for the Buffalo Station Minor Subdivision. Ms. Koozer noted an additional memo with an addendum to the staff report and the attachment from Deputy County Attorney Kate Dinwiddie pertaining to the liabilities associated with gas tanks in the right-of-way. In summary the applicant requested a variance from the Subdivision Regulations that requires a minimum 80-foot right-of-way on roads such as Cottonwood Road. In this case, the Road Department requested a 45-foot

dedication, which would result in a 90-foot right-of-way. The applicant indicated that the location of existing gas station facilities present an undue hardship in meeting the requirement, and requested a variance, offering instead to provide 30 feet of right-of-way. The Commission requested more information about the County's liability with respect to the gas station facilities if the entire 45 feet of right-of-way were obtained. Ms. Dinwiddie advised that there were serious concerns if the full 45 feet were dedicated to the public as a County right-of-way. As an owner, the County would be jointly liable with the owners of the Buffalo Station for any contamination associated with the underground tank. After reviewing, Ms. Dinwiddie recommended that the County not have any ownership interest in the underground tank, and recommended that the variance be granted. The Road Department also, recommended paving Cottonwood Road for the length of the subdivision. The applicant requested that the paving not be required. Larry Berg the prospective buyer of proposed Tract 1 (Buffalo Station) stated on the record that if this tract were developed, he would pave Cottonwood Road at that time. Ms. Koozer pointed out if the variance were approved that condition #15, should be modified to reflect 30 feet of right-of-way, and if the paving is not required that conditions #11, 12, 13 and 14 should be deleted. She stated that the applicant had raised concerns about impact fees in conditions #18 and 19 and 21, the Sheriff mitigation request. George Durkin, on behalf of the Road Department was questioned by the Commission regarding exact location of the underground tank, and if it would encroach into the 45 foot right-of-way. The applicant's representative Terry Threlkeld confirmed that the tanks would be in the 45-foot right-of-way, although if it were changed to 30 feet they would be outside. Giving the developer the benefit of the doubt, Commissioner Murdock stated that he was in favor of granting the variance request because the applicant was told that 30 feet was sufficient. He was also in favor of not making them pave beyond the existing pavement because in the past it had not been requested of one lot minors. Commissioner Mitchell had no problem with paving requirement, although she was concerned about the width of Cottonwood Road as an entrance. She stated that it was a public safety issue and prior to construction it was a known factor that this was a state road and an arterial. She stated that the applicant was adding to the impacts with this commercial development, which needs a wider entrance on Cottonwood Road, and therefore the 90 feet right-of-way was needed. She noted that Cottonwood Road is an increasingly desirable route and she was not in favor of the variance. Commissioner Mitchell moved to deny the variance request for the road right-of-way on Cottonwood Road fronting the Buffalo Station Minor Subdivision. Motion died for the lack of a second. Commissioner Vincent moved to approve the variance, sighting the necessary criteria needed to grant the variance. Seconded by Commissioner Mitchell. Commissioner Murdock added the finding, that if they required the 45 feet which would be strict compliance with the arterial standard, it would result in an undue hardship and that strict compliance would not be essential to the public health, safety and general welfare. Commissioner Vincent stated that the liability question is primary in his mind, because even if they knew the tank itself was outside this area the canopy and pumps are within the 45 feet of right-of-way, causing a significant liability for the County. Commissioner Mitchell disagreed, stating that she believed it was a public health and safety issue, and suggested that they consider adding a condition that would require the applicant to provide the additional right-of-way, should there be any changes, remodeling or removal take place in this area. Commissioner Vincent and Murdock voting in favor. Commissioner Mitchell voting nay. Motion carried. Discussion took place regarding the paving requirement. Commissioner Murdock reiterated that they typically do not require minor subdivisions to pave. Commissioner Mitchell had no problem with striking condition # 21. Ms. Koozer suggested making the paving requirement a covenant, noting that none of the required covenants shall be revocable without the mutual consent of the governing body and the owner. Mr. Berg was in agreement with Ms. Koozer's suggestion. Commissioner Murdock recommended adding covenant 5(i.), stating the following: Any further improvements on Tract 1 or 2 shall require that paving to county standards be done to the eastern most property line of Tract 2. If that covenant were added, he then suggested striking conditions #11, 12, 13, and 14; condition #15, change the words forty-five (45) to thirty (30); and strike condition #21. Mr. Threlkeld requested that the Commission look at conditions #18 and 19, regarding impact fees, although the way they are written allows them to request a waiver. It was determined by the Commission to leave the conditions, as written. Commissioner Mitchell questioned if they could draft a covenant to procure additional easement for the future, as a long-term safe guard, should the applicant replace or remodel at any time in the future. The Commission took a brief recess to work with Ms. Koozer on drafting a condition for the right-of-way. The Commission reconvened. Commissioner Vincent questioned George Durkin with the Road Department as to how much right-of-way was needed at a minimum for an intersection with a right turn lane; a left turn lane and a lane for traffic turning right or left off of Highway 191. Mr. Durkin replied a minimum of 80 feet, without looking at it. In summary, Commissioner Mitchell noted that it was determined without countywide zoning or building permits, that there was no way for the County to know of any expansion or changes on the property. Therefore, the County has no legal hook to gain the easement should the Buffalo Station make any changes through expansion or replacement of the tanks, pumps or canopy. Commissioner Vincent moved approval with the amended conditions as follows: add a new covenant 5(i.), Any further improvements on Tract 1 or 2 shall require that paving to county standards be done to

the eastern most property line of Tract 2; strike conditions #11, 12, 13, and 14; change condition #15, striking forty-five feet (45), and inserting thirty-feet (30); strike condition #21; and leave conditions #18 and 19, as written. Seconded by Commissioner Mitchell. Commissioner Murdock added the finding that this one lot minor is consistent with the Gallatin County Master Plan and Subdivision Regulations. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

Two terms exist on the Search and Rescue board due to the term expirations of Linda Marshall (Civil Air Patrol representative) and Bonnie Gafney (Western Montana Search Dogs representative). Both are three-year terms, the former to expire on January 5, 2005 and the later to expire on January 31, 2005. Both members were notified of their term expirations. Ms. Marshall declined reappointment to the board and Ms. Gafney expressed written interest in being reappointed. Ms. Marshall, on behalf of the Civil Air Patrol, recommended Roger Kittelson as her replacement. Mr. Kittelson submitted an application to serve in this capacity. There was no public comment. Commissioner Mitchell moved to accept Roger Kittelson, as the Civil Air Patrol representative. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to accept Bonnie Gafney's reappointment, as the Western Montana Search Dogs representative. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Clerk and Recorder Shelley Vance reported on the certification of a resolution for alteration of the kinds, types, and levels of service for the Clarkston Fire Service Area. On December 11, 2001, and the Commission passed Resolution #2001-135, stating that unless more than 50 percent of the owners of real property within the Clarkston Fire Service Area protest the alteration of the kinds, types and levels of service, on or before February 11, 2002, that the levels of service would be changed. Ms. Vance provided a certification stating that she did not receive sufficient protests to alter those changes. Commissioner Mitchell moved to approve the alteration of the kinds, types and levels of service for the Clarkston Fire Service Area, finding that there were not sufficient protests to add this service. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Mike Potter, representing PC Development reported on the consideration of a request to waive the petition process in the creation of the Amsterdam Highway/River Rock RID. Mr. Potter explained that they began the actual planning and design process for the Amsterdam Highway when they were master planning the River Rock project. Future anticipated upgrades for the highway were discussed with the Road Department and included input from the State Highway Department, because it was within their jurisdiction. It now falls within the County jurisdiction. Originally the upgrades were scheduled to begin in 2003, and now that River Rock is slightly ahead of schedule they would like to move the project up to 2002. They think waiving the petition process is a more efficient way to go. He stated that they had the support of the school, as they too, would like to see the new traffic signal, the proper turn lanes and the improvements that will be made. He stated the most common remarks from the residents is the need to get the Amsterdam Highway improved. Taking that all into account, they want to proceed with the creation of the Amsterdam Highway RID and have it completed this year before school reopens. He felt the communication was good and that everyone anticipated this RID. It is noted on the final plat and also shows on title reports as property owners purchased their property in River Rock, they waived their right to protest a future RID for Amsterdam, including the traffic light. Mr. Potter explained that they contained the responsibility exclusively to River Rock, and were not asking other subdivisions even though there are other subdivisions in the area that have waived their rights. The basic design work is done, and the Road Department is in agreement with the design solution, that includes right hand turn lanes at all the main intersections into River Rock proceeding westbound on Amsterdam; a traffic light at the main intersection adjacent to the school; a middle turn lane for left hand movements from Thorpe Road to Royal Road. The total project is in the \$1.2 to \$1.5 million dollar range, and will cost approximately \$1,400., per home over 20 years. Commissioner Murdock questioned if the River Rock residents had been contacted with regard to opposition or support for the project. Mr. Potter replied that every few months they try to have a neighborhood meeting and they always talk in generalities about the overall project. He stated that people are generally aware, and the intent is to have a neighborhood meeting specifically on this in the near future. Mr. Potter stated that they would like to take their future impact fee dollars as they bring phased plats in and pay down the bond obligation on this RID, to shorten the payoff process. Public comment: Brian Oevermann, a resident of River Rock questioned the center turn lane, stating that the majority of the residents of River Rock approach from Jackrabbit Lane. He addressed the Road Department asking why they could not bring in people from the south and other developments that would benefit greatly from the center turn

lane. He was told that existing owners are generally not asked to pay. He believed this was an inequity by asking a major development to improve Amsterdam Road, without asking others that would benefit. Although he knew this RID was a possibility, he wondered when the residents of River Rock would be notified. He requested that the Commission consider modifying the boundaries of the RID to include others in the immediate vicinity that are impacted. Gallatin County RID Attorney Susan Swimley noted that this type of request has been granted twice before by the Commission to waive the petition process. She briefly reviewed the RID process, explaining that the Commission has the right to change the boundaries at the resolution of intention phase. Once that is complete, notice is sent by certified mail to those within the district that are to be assessed, giving them the right to protest creation and the right to protest the assessment. If the Commission receives 50 percent protests that are determined valid, then they would be prohibited from creating an RID in that area for one year and anything less is within their discretion. Ms. Swimley stated that through the subdivision process the Commission asks developers to waive on behalf of the people they are selling to, their right to protest the creation, although the validity of those waivers has not been tested in the State of Montana. Commissioner Murdock asked if impact fee dollars could be used to partially offset these costs. Ms. Swimley stated that the regulation allows for impact fees to be used to pay down the costs of existing bonding for improvements. Gallatin County Clerk and Recorder Shelley Vance commented that many years ago State Law was changed to take the petition process out as a requirement to create an RID. She did not have any comments, other than it would take a tremendous amount of workload out of her office if they did not have to do them and certify to the Commission the qualifications of signatures on RID petitions. Commissioner Murdock proposed that the developer work with the Road Department and determine areas that are benefited, in order to cut the costs for this RID. He also requested that they work with Ms. Swimley to see if, and how much of the impact fee dollars could be contributed. Commissioner Mitchell commented that she was bothered by the fact there had not been a neighborhood meeting yet, along with the fact that there are others that would be benefiting from the improvements to Amsterdam Road. She stated that she would like to see better communications with all of the neighborhood that would be benefited, not just River Rock, and if that meant going through the petition process she would be in favor of it. Commissioner Vincent believed that opportunity would be presented even if they waived the petition process in this case, and it would be a benefit to the Clerk and Recorder, given her workload. He stated that he would not support it, unless he was convinced that everyone benefiting from it was paying their fair share. Commissioner Murdock stated he was willing to waive the petition process for the reasons stated by Commissioner Vincent. Commissioner Vincent moved to waive the requirement of the petition process in the creation of the Amsterdam Highway River Rock RID. Seconded by Commissioner Mitchell, adding that the only reason she would support this is the fact that they will have public hearings, and they will have the opportunity to change the boundaries, and it does not mean they will support the creation of the district in the end. The Commission concurred. None voting nay. Motion carried.

Teresa Flanagan on behalf of Community Corrections reported on consideration of a resolution of intent to amend the Community Corrections FY 2002 budget to include unanticipated revenues in the amount of \$500. There was no public comment. Commissioner Vincent moved to approve Resolution of Intention #2002-025. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Commissioner Mitchell announced the public hearing and consideration regarding a resolution approving a Motor Vehicle Wrecking Facility in Belgrade, Montana. A letter was received from the Montana Department of Environmental Quality notifying the Commission of an application received for a Motor Vehicle Wrecking facility. Pursuant to State Law the Commission is required to: a) Conduct a public hearing to determine whether the proposed facility will significantly effect the quality of life of adjoining landowners and the surrounding community; and b) Adopt a resolution in support of or in opposition to the location of the proposed facility. Junk Vehicle Director Dave Fowler submitted a letter of recommendation. Mr. Fowler explained the location of the facility, noting that it would contain motorcycles only. A letter was received from Belgrade City-County Planner Jason Karp stating that it was within the Belgrade Planning. There was no public comment. Environmental Health Director Tim Roark commented that it was satisfactory and his concerns were alleviated. Commissioner Mitchell moved to approve Resolution #2002-026. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman gave a presentation of the Financial Trend Analysis and Financial Forecast. Mr. Blackman submitted Exhibit "A", the final FY 2002 Financial Trend Analysis

and Financial Forecast, dated March 5, 2002. The report included a review of prior years in general, a detailed look at current budget information along with projections for FY 2002 Year End, statement of 17 trends that affect the county and the financial forecast for the next five years. The report outlined the following areas: Overview-Fiscal Officer Summary; Operating and Capital Reserves; Review of Prior Budgets; Financial Trend Analysis; and Financial Forecast. He briefly summarized each of the areas. Mr. Blackman stated that it was his conclusion and opinion that the growth in the budget and the growth in taxes paid by residents is a trend that cannot continue into the future without adversely affecting the county's ability to provide current service levels. The methods to address this conclusion include: Identification of core services and levels of services; Reduction or elimination of departments, activities or tasks not specifically required to be done by the county by law; Enhancing sources or revenues- may require changes to the legislature including the ability to recapture actual costs for services required to be delivered by state, local or federal laws and regulations; and recognition that in some cases the public needs to vote on increased mills. The seventeen indicators were evaluated using Favorable, Unfavorable, and Watch as ratings. The indicators include: 4 based on economic factors; 6 based on growth; 3 tracking use of one time revenues/cash/debt; and 4 tracking expenditure growth. In Mr. Blackman's opinion the current overall rating is Favorable, up from Watch last year with 12 indicators Favorable, 5 indicators Unfavorable. He pointed out that this might mean that during the next five budget years the County Commission will be confronted with department needs exceeding current funding sources. Projections show the following: on the average 10% of the services currently being provided will be reduced or eliminated without new funding mechanisms; Operating Reserves, Capital reserves and Capital Projects will be under greater stress; County debt load will increase dramatically; cash carry over will decrease, resulting in fewer dollars available for re-appropriation and a decrease in investment earnings; and high insurance costs and restrictions on money available for wage increases will adversely affect retention and attraction of qualified employees. He recommended the following steps: Each Elected Official, Department Head and County Commissioner needs to take a critical look at the county's revenues and expenses, to see what is needed and if additional revenue can be generated, or expenses decreased; During the FY 2003 budget process departments will need to express needs in clear, concise and priority order; and be consistent with the county goal the attraction and retention of quality employees must be kept as a high priority. He noted that this will be heard again in two weeks and open for public comment.

Gallatin County Fiscal Officer Ed Blackman reported on consideration of a resolution of intent authorizing the Gallatin Gateway Rural Fire District Board of Trustees to use fire impact fees for the purchase of a water tender pursuant to District Resolution #2001-03. Commissioner Mitchell moved to approve Resolution of Intention #2002-27. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Commissioner Murdock reported on the consideration of a resolution to amend the Official Zoning Map for the Gallatin Canyon/Big Sky Zoning District, as submitted by Westland Enterprises, Inc., and TM Land Partners, Limited. On February 14, 2002, the Zoning Commission voted to approve the amendment. Commissioner Vincent moved to approve Resolution #2002-028. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of an Improvements Agreement by Morrison-Maierle, Inc., on behalf of CGV Montana, LLC for the Antler Ridge Major Subdivision, Phase 1 through 4. Preliminary plat approval was granted on January 23, 2001, as a 65 lot residential development. The property is located approximately mid-way between the Meadow Village at Big Sky, on the south side of Highway 64. The applicant is requesting that the required conditions for installation of infrastructure improvements (roads, intersection improvements, sewer and water facilities, fire hydrants, stop signs and road name signs, seeding and noxious weed control), be completed under an Improvements Agreement with Gallatin County. The Gallatin County Attorney's Office reviewed and approved the Improvements Agreement. Mr. Johnson noted the following conditions applied: conditions #4 and 8, of the required conditions to be completed prior to final plat approval for the first development phase; conditions #5, 8, 9, 10 and 11, of the required conditions for each Phase final plat recordation. Discussion took place regarding whether or not the applicant was bonding through an Improvements Agreement for the sewer and water treatment system and the consequences should those improvements not be completed once final plat approval is granted. Mr. Johnson replied that in the event that the applicant does not complete the required improvements in the stipulated time then it is up to the Gallatin County Commission to complete the improvements. James Nicholson on behalf of Morrison-Maierle briefly summarized the

improvements to be bonded. He submitted Exhibit "A", a copy of the final plat and Exhibit "B", a colored blow up of the subdivision. On behalf of Morrison-Maierle, Bob Lee responded to Commissioner Murdock's concern regarding bonding of the water and sewer treatment system, clarifying that this is a zoned area and land use permits will not be issued until Big Sky Fire Chief Bob Stober is satisfied they can provide fire protection, and if they are going to install water lines they will install sewer lines. Mr. Johnson added that the concern the Commission has with the Improvements Agreements is still valid because four land use permits have been issued for this property and when they do occupancy permits 90% of the people are in the homes. Commissioner Mitchell moved to approve the Improvements Agreement for the Antler Ridge Major Subdivision, finding that staff and the County Attorney had given their approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a request for final plat approval for the Antler Ridge Major Subdivision. Mr. Johnson stated that he reviewed all of the required conditions and with the Commission's approval of the Improvements Agreement, he stated that all the required conditions were met. There was no public comment. Commissioner Vincent moved to grant final plat approval for the Antler Ridge Major Subdivision. Seconded by Commissioner Mitchell, finding that with the approval of the Improvements Agreement, that all the conditions have been met according to staff. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman presented a pending resolution establishing an infrastructure loan program fund for disbursement of loan proceeds pursuant to loan documents approved by the State of Montana and Gallatin County. Commissioner Vincent moved to adopt Resolution #2002-029. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

There being no further business the meeting was adjourned at 11:41 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 12th DAY OF MARCH 2002

The meeting was called to order by Chairman Bill Murdock at 9:03 A.M., at the Fairgrounds Building #4. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

MARCH 4, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Chief Deputy County Attorney Chris Gray, Grants Administrator Larry Watson, and Commission assistant Glenda Noyes. The Commissioners considered approval of a tri-party signal agreement between Gallatin County, Montana Rail Link, and the State of Montana. Mr. Gray explained the situation, noting that the State and MRL use grant monies to place a signal at a crossing at Thorpe Road in Belgrade. The contract is not worded in a way that Mr. Gray is happy with, but both parties refuse to change the language, and the benefit of the crossing outweighs the issues with the non-negotiable contract. Commissioner Mitchell made a motion to approve said contract, finding that MRL and MDOT have a precedent or a tri-party agreement for signal installation; and finding that the language in the agreement favors both the State and MRL; and additionally finding that the improvements of the signal crossing is in the best interest of health and safety and welfare of the County and the benefits outweigh the non-negotiable contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a contract between Gallatin County and the Gallatin Gateway Community Center for use of the center on March 6, 2002 for a meeting regarding the bike path.

This is a non-monetary use agreement. Commissioner Mitchell made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget appropriations transfer for Youth Probation. Commissioner Mitchell made a motion to approve said transfer. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered an adjustment to fire impact fees, per the impact fee policy that allows adjustment based on the CPI. This has not been done in awhile, and the larger adjustment reflects this. Commissioner Mitchell made a motion to approve the adjustment to fire impact fees. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

MARCH 5, 2002

- The Commissioners attended a special meeting for the purpose of considering claims listed on voucher list dated March 1, 2002. In attendance were Commissioners Murdock and Vincent, Auditor Joyce Schmidt, Accounting Clerk Renee Huyser, and Commission Assistant Glenda Noyes. Commissioner Vincent made a motion to approve said claim numbered 8008610, totaling \$4,000 – earnest money for property being considered for a future Road Department site. Commissioner Murdock seconded the motion. In discussion it was noted that there is no obligation to buy. All voted aye. Motion carried with a vote of two to zero.

MARCH 6-7, 2002

- The Commissioners conducted regular County business.

MARCH 8, 2002

- The Commissioners attended an exit conference with the External Auditor – Denning, Downing and Associates. In attendance were Commissioners Murdock, Mitchell and Vincent, Clerk and Recorder Shelley Vance and Accountant Dan Eschenbaum, Auditor Joyce Schmidt, Treasurer Anna Rosenberry and Accountant Kim Buchanan, Finance Officer Ed Blackman, Human Resources Director Randy Kuyath and Bob Denning, Denning, Downing, and Associates. Guests included Jeff Krauss and Nick Gevock. Mr. Denning reported that Gallatin County has an unqualified opinion for June 30, 3003 period, which is the “highest” opinion that they have to offer. Mr. Denning went through the findings and the appropriate person(s) present to respond to said findings did so – indicating how they will address the finding within the next year. All individuals will give a written response to Mr. Blackman today. The Commissioners accepted the report.
- The Commissioners attended a special meeting for the purpose of approving claims listed on voucher list dated March 8, 2002. In attendance were Commissioners Murdock and Mitchell, Accounting Clerk Renee Huyser, and Commission Assistant Glenda Noyes. Commissioner Murdock made a motion to approve said claim numbered 8008611, totaling \$2,792,703.87. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

* * * * *

- Landfill Revenue for November and December, 2001, January and February 2002: \$249,470.46.
- Payroll for February 2002: \$1,155,688.72.
- Clerk & Recorder’s Fees Collected for February 2002: \$59,661.12.
- New Hire Report for February 2002: Planning – Sean O’Callaghan; Fairgrounds – Donald Krambeer, Luigi Mostefa, Michael Haeder, Harold Gaffke; Superintendent of Schools – Elaine Casey; Rest Home – Jolene Dworshak, Jennifer Sangsland, Lisa Lucas, Tara Mittelstedter
- Terminated Employees’ Report for February 2002: Rest Home – Nicki Rassler, Melissa Reed, Emily Allen; Human Resources – Kathy Nowierski; 911 – Flora Sebens, Angela Bauman; Auditor – Jackie Lamke

The following items were on the consent agenda:

1. Approval of claims were presented by the Auditor dated, March 7, 2002 in the amount of \$209,917.70.
2. Request of a Mortgage Survey Exemption for Terrance M. Hofer, located in the NE ¼ of Section 5, T2S and R5E (Intersection of South of 19th Avenue and Patterson Road). Gallatin County Planner Sean O’Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

3. Request for Court Order Exemption for Donald and Linda Westra, described as a parcel of land located in the SW ¼, of Section 26, T1S, R4E, Gallatin County. Belgrade City-County Planner Jason Karp reported that based on the information submitted this appears to be a proper use of the exemption procedure in accordance with State Law and the Gallatin County Subdivision Regulations.

Commissioner Mitchell read the consent agenda. Commissioner Vincent moved approval of the consent agenda. There was no public comment. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the continuation of consideration of a request for preliminary plat approval of the Strang Minor Subdivision. Although, public comment was closed last week, Commissioner Murdock stated that he would consider allowing limited public comment. Ms. Koozer explained the continuation was due to concerns raised regarding potential hazardous waste, because the site had previously been used as a gravel pit. Commissioner Mitchell noted there was one letter received after last week's hearing from neighbor Brian Troth expressing concerns that the gravel pit may not have been properly reclaimed and that the proposed home site may not be appropriate for the neighborhood. There was no further public comment. Ms. Koozer summarized the addendum to the staff report. In response to concerns raised during the hearing on February 26, 2002, staff added, deleted and changed the following conditions: add condition #10.1): "Prior to use of any well on Lot 2, owner shall cause well water to be tested to confirm that drinking water standards are met, including standards for bacteria, nitrates, volatile organic compounds and diesel range organics"; delete condition #10(h); (The County Attorney's office advised against having an indemnification statement be part of the conditions of approval. Instead, the applicants have entered a voluntary indemnification agreement, prepared by Deputy County Attorney Kate Dinwiddie); change conditions #10(g) and 13, the reference to Lot 1, should read Lot 2. She also, explained there were questions raised regarding conditions #7, 8 and 20, which may potentially be changed. Commissioner Mitchell questioned the outcome should they not approve this request since it had already gone through the family transfer exemption process. Ms. Koozer stated that as of now they do exist as two separate parcels. Because the County Attorney had concerns that the family transfer exemption used to create those parcels was used improperly, there were discussions of taking legal action in regard to the improper use of the exemption. Deputy County Attorney Kate Dinwiddie stated they could take civil action by removing the plat approval and make it one lot again, however she had no problem with going through subdivision review because the applicant has worked with them and wants to do what is right. Commissioner Vincent questioned what kind of guarantee there was that the geotechnical analysis would not only be performed but is going to confirm to a potential builder at that point that this is on stable ground. Ms. Koozer replied that condition #7, would require the analysis to be performed and if it identified any compacting that needed to be done, they would have to have confirmation, prior to final plat approval. This would work in tandem with condition #8, requiring the plat to include a building envelope as identified in the geotechnical analysis. Commissioner Mitchell asked if the number of structures could be limited on the lot, because after viewing the area her preference would be to not build anything due to steep slopes and lack of compaction. She stated that all the concerns raised by the neighbors, such as steep slopes, lack of compaction, and next to the creek looked valid. Ms. Koozer stated it could be limited if it was related to a public health and safety concern. Given those concerns and the history of the property Commissioner Mitchell was not inclined to approve construction of anything on this site. Commissioner Vincent to some extent agreed with Commissioner Mitchell that it was not a suitable building site although, on other hand he did not believe that it was his call to make, unless he had legally defensible grounds to make that decision and in this case he did not believe he did. He commented that given the explanation of compaction and the hold harmless agreement relative to toxic waste, that the site should be approved with the changes suggested by staff. The applicant's representative Don White stated that they had satisfactorily worked out the hold harmless agreement with Deputy County Attorney Kate Dinwiddie, and in terms of the other conditions, they had no problem with having the well water tested. However, he commented that the geotechnical analysis was unnecessary based upon site evaluator Mark Westergaard's determination after digging test holes for the sewage disposal, and found nothing to indicate that the site had been disturbed. Commissioner Murdock commented that he too had reservations about this site being good but it was not a zoned area, and there are no countywide building permits required. Commissioner Vincent moved approval of the preliminary plat request for the Strang Minor Subdivision, finding that it complies with State Statute, Gallatin County Master Plan, and the Subdivision Regulations, including changes to the conditions in the March 12, 2002, staff memorandum from Ms. Koozer. Ms. Koozer clarified the suggested changes to conditions #10(h) and 10(g) and 13, and potential changes to conditions #7, 8, and 20. Commissioner Murdock was not in favor of condition #20, being included unless the applicant volunteered. Adding to the motion, Commissioner Vincent noted they would be striking condition #20, and maintaining the initial language in conditions #7 and 8.

Seconded by Commissioner Mitchell. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

One vacancy exists on the Northside Rural Fire District due to the passing of Howard Micklewright. Appointment to fill this term will be on an interim basis until the next Fire District election that will be held on May 7, 2002. One application was received from Tom Dabner, as well as a letter of recommendation in favor of Mr. Dabner from Robert Altman, Chairman of the Board of Trustees. Commissioner Mitchell moved to appoint Tom Dabner. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Chief Civil Deputy County Attorney Chris Gray reported on the continuation of the second reading of consideration of amendments to Gallatin County Dog Control Ordinance #2002-02. In following procedure, Mr. Gray noted there was confirmation of posting upon first reading of the ordinance from the Clerk and Recorder's. He commented there were additional substantive changes to be made, with regard to an increase in fines, however he asked the Commission to move forward with these changes at this time, stating he would begin working on the others in the near future. Commissioner Murdock asked if there was any objection to waiving the reading of the Dog Control Ordinance. There was no objection to waiving the reading. Mr. Gray summarized the changes being made to the ordinance at this time. There was no public comment. Mr. Gray added that there were no written comments. Commissioner Mitchell moved to approve Ordinance #2002-02. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Commissioner Murdock announced that regular agenda Item #4, the public hearing and consideration of a resolution authorizing the Gallatin Gateway Rural Fire District Board of Trustees to use fire impact fees for the purchase of a water tender pursuant to the District Resolution #2001-01, would be continued until March 19, 2002.

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Gallatin County final operating budget for the Communicable Disease Fund for FY 2002. There was no public comment. Commissioner Vincent moved to approve Resolution #2002-030. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution approving the Gallatin County Capital Improvement Program. As a staff member of the CIP Committee, Mr. Blackman recommended approval of the resolution. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-031. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of availability of funding through the Community Development Block Grant (CDBG) and HOME Programs. Mr. Watson stated this was the second public hearing required to retain Gallatin County's eligibility to participate in the CDBG and Home funds. This public hearing was to hear comments from citizens regarding needs and priorities for the different category areas for which these program funds apply. He gave a brief presentation of those categories and the amount of funding available. He had no formal applications at this time although he was working on proposed applications for three separate businesses. There was no public comment.

Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a request for preliminary plat approval by Gaston Engineering and Surveying, on behalf of Gary Oakland for the Meadowbrook Estates Major Subdivision (formerly the King Arthur Phase II Subdivision), located in the SW ¼ of Section 16, T2S, R5E, PMM, Gallatin County, Montana; generally located directly east of the Rae Subdivision, directly south of King Arthur Park, and approximately one half mile south of the Huffine Lane and Gooch Hill Road intersection. The request is for a 57-lot major subdivision on approximately 16 acres located approximately three miles west of the City of Bozeman, to be accessed by the extension of two existing roads within the Rea Subdivision: Chestnut Avenue and Dogwood Drive, both served by Gooch Hill Road. The property is located in the Gallatin County/Bozeman Area

Zoning District and is zoned Medium-Density Residential (R-3). According to the 1990 Bozeman Area Master Plan, the property has two land use classifications: Rural Residential Node and Public Open Space overlay. Ms. Madgic briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. She outlined the following: Bozeman Area Master Plan designations; Water/Sewer; voluntary mitigation for Sheriff services; roads; traffic impact study; and park dedication. She explained that the applicant is proposing their park dedication to be a natural park with no improvements. Therefore, the Commission should determine whether or not the applicant's proposed dedication is suitably located and whether applicant's intention to develop a "natural park" (no improvements) is appropriate. Although the applicant indicated a desire to dedicate the proposed parkland to "the public", it has been the policy of the Commission to have applicants dedicate parkland to the property owners' association. Ms. Madgic pointed out that there was a letter received from Patrick Byorth, Fisheries Biologist for Montana Fish, Wildlife & Parks expressing concerns for the following issues: impact to Aajker and MacDonald creeks, sewage, surface water rights, stream crossings and possible need for 310 permits. Mr. Boyorth stated that he had "grave concerns over the impacts of siting homes along both creeks," and that "Inevitably, siting homes along creeks have serious impacts." He made the following recommendation: Incorporating buffer strips along each stream into community open space "to minimize impacts of development." The Planning Board met February 12, 2002, and nine individuals testified expressing the following concerns: safety involving the Farmer's Canal and the need for a fence to prevent trespassing; poor condition of the bridge along the ditch; existing sewer system; dogs; snow removal; traffic on Gooch Hill Road; narrow width and the need for street lighting and sidewalks; high groundwater conditions in the area proposed for development; concerns with traffic impacts to existing subdivisions to the west, the Rea Subdivision. The Planning Board voted 6:0, with one abstention, to recommend approval of the Meadowbrook Estates Major Subdivision. They recommended that the Commission require the applicant to install sidewalks, add a provision for a pedestrian plan through the subdivision, installation of the fence along the Farmer's Ditch be put to place, preparation of the internal traffic plan, and suggested that Aajker Creek be incorporated into parkland which would require the subsequent reconfiguration of some of the lots. The Planning Board voted to recommend the following findings to the Commission: Paving of Stucky Road should not be the applicant's responsibility. (Removed from the Gallatin County Road Department's recommendations). The County should assume responsibility for improvements to Gooch Hill Bridge. Some Planning Board members thought the applicant should provide streetlights and sidewalks due to the urban nature of this proposal. They suggested the following condition: Applicant shall assume responsibility for installation of streetlights to be reviewed and approved by the Gallatin County Road Department. Ms. Madgic incorporated the majority of those recommendations into the conditions, although she did not add street lighting and sidewalks, as these are urban standards that are not included in the Subdivision Regulation standards. Ms. Madgic submitted Exhibit "A", a copy of the Rea Subdivision plat. Notice was published in the High Country Independent Press on January 17 and 24, 2002; and certified mail was sent to adjacent property owners. There were no comments received regarding the proposal. The Gallatin County Commission has the following determinations to make with this application: a determination as to whether or not to approve the proposed subdivision. The basis for the decision shall be whether the preliminary plat, and additional information demonstrate that the subdivision meets: The requirements of the Montana Subdivision and Platting Act; The Gallatin County Subdivision Regulations; and The Bozeman Area Master Plan. If the Commission decides to approve the proposed subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 3. Two copies of the following documents (and any others which may need County Attorney review) shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval: A. Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana. B. Bylaws controlling the operation of the property owners' association. C. Restrictive and protective covenants encumbering the real property contained within the subdivision. D. Restrictive deed transferring title of all common open space parcels within the subdivision to the property owners' association. E. Public road easements. F. Improvement agreements. G. Certificate of a licensed title abstractor. 4. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 5. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area*

designated on this plat as "Utility Easement" to have and to hold forever. 6. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval(s). 7. Applicant shall record the following covenants on or with the final plat(s), to include all covenants recommended by the Rae Fire District: a) *Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.* b) *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Protection Codes.* c) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* d) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* e) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* f) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* g) *The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads, parks and open space.* h) *The maintenance of all exterior boundary fences shall be shared equally with adjacent property owners.* i) *Title to the common open space within the subdivision shall vest in the property owners' association and be maintained and controlled by the board of directors of the association.* j) *Common open space shall be preserved and maintained for passive and active recreation, wildlife habitat, protection of scenic, and unique or important natural features.* k) *Membership in the property owners' association shall be mandatory for each lot owner. Each lot owner shall be required to pay such fees as the board of directors of the association deem appropriate for real estate taxes, insurance, and the maintenance of the common open space.* l) *Membership in the property owners' association shall be mandatory for each lot owner. Each lot owner shall be required to pay such fees as the board of directors of the association deem appropriate for real estate taxes, insurance and the maintenance of the common open space.* m) *The property owners association shall be responsible for liability insurance in an amount to be determined by the board of directors of the association, which insurance shall name Gallatin County as a loss payee.* n) *A portion of the assessments levied by the Board of Directors of the property owners' association shall become a lien on the lots within the subdivision in the event the taxes on the open space become delinquent. The board of directors shall adjust the assessments on the taxes on the common open space increase.* o) *Ownership shall be structured in such a manner that real property taxing authorities may satisfy tax claims against the common open space lands by proceeding against individual owners in the property owners' association and the dwelling or building units they own.* **p) The following restrictive covenant shall pertain to Lots 20-23:" A minimum of five feet of the required 35-foot setback immediately adjacent to Aajker Creek shall be left in a natural vegetative state."** q) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* **8. Applicant shall install a fence along southern property boundary along Farmer's Canal easement. Such fence shall be acceptable to the owners of the Farmer's Canal.** 9. Applicant shall prepare and submit an internal traffic plan within the project and subdivision to the west for review and approval by the Gallatin County Road Department. 10. All road names for interior roads shall be approved by the County GIS Office. 11. A detailed signage and drainage plan will need to be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. 12. All interior roads shall be constructed to County paved standards, and have a 60-foot right-of-way, dedicated to the public, unless other County road standards apply. 13. Applicant shall participate in a pre-construction meeting with the County Road Department prior to the start of any construction. 14. Applicant shall provide a two-year written warranty from the contractor regarding the paving of all County-maintained roads. Applicant shall submit the warranty to the County Road Department for review and approval. 15. Applicant shall form a property owners' association for the maintenance of all interior roads. A copy of the property owners' association by-laws shall be submitted to the County Road Department prior to final approval. 16. The property owners of the proposed Meadowbrook Estates Major Subdivision shall be required to enter into a joint maintenance agreement with the property owners' association for the

RAE Subdivision for maintenance of Dogwood Drive and Chestnut Avenue. A copy of the agreement shall be submitted to the County Road Department for review prior to final plat approval. 17. Applicant shall pay road impact fees per the Gallatin County Road Impact Fee standards. 18. Applicant shall improve Gooch Hill Road with a two-inch overlay to existing pavement and shall widen Gooch Hill Road to a 28-foot paved surface with one-foot compacted crushed material shoulders from Huffine Lane to the south end of Dogwood Drive. Applicant shall implement the installation of turning lanes at the intersection of Gooch Hill and Huffine Lane Road. 19. Applicant shall re-seed or plant new sod along all public right-of-way areas disturbed during construction. 20. The final plat(s) shall contain a statement requiring lot accesses be built to Gallatin County Subdivision Regulation standards. 21. All parks and open space shall be provided as shown on the preliminary plat. 22. A fully executed and notarized copy of the restrictive deed, transferring title of the parkland within the subdivision to the property owners' association, and the protective covenants shall be recorded in the Office of the Clerk and Recorder of Gallatin County simultaneously with the filing of each final plat. 23. All park parcels shall be dedicated to the property owners' association prior to final plat approval. 24. Applicant shall consult with the County Trails Committee regarding a trail system. **25. Applicant shall submit a parks improvements and maintenance plan (showing connections between residential uses, commercial uses, recreational uses, etc.) prior to final plat approval and shall install such improvements prior to final plat approval.**— 26. **Final plat shall provide a minimum 35-foot setback between the ordinary highwater mark of Aajker Creek and any residential structure. Additionally, a minimum of five feet of the required 35-foot setback immediately adjacent to the watercourse shall be left in a natural vegetative state (to be incorporated as a deed restriction on Lots 20-23).** **OR ...26. Applicant shall redesign subdivision, particularly Lots 21, 22 and 23, to accommodate Aajker Creek into parkland.** 27. Applicant shall comply with Section 76-3-504(9) MCA regarding provision of ditch maintenance easement(s) as appropriate. Applicant shall provide a minimum ditch-maintenance easement of 40 feet, 20 feet on both sides of the watercourse or more if required by the ditch company. 28. Applicant shall obtain written confirmation from the Farmers Canal Ditch Company, stating that the proposed development, and maintenance easements will not create adverse impacts on the operation and maintenance of the ditch/canal within the subdivision. 29. Applicant shall obtain any appropriate state and/or federal permits pertaining to wetlands and/or other waterways. 30. Applicant shall pay fire impact fees in accordance with the Gallatin County Subdivision Regulations. 31. Applicant shall provide water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The Rae Fire District shall approve all fire hydrant locations, installation and operation prior to undertaking any construction within each development phase. Applicant shall also provide the Rae District with a copy of final plat(s) and site plans of all lots before start of construction. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. *All commercial structures must submit plans to the Montana State Building Codes Bureau and the Rae Fire District for review and approval before construction is started. Applicant shall obtain written verification from the fire district that all the required fire protection measures required by the District and Subdivision Regulations have been provided.* 32. Applicant's mitigation plan for sheriff services shall be acceptable to the County Commission. 33. The water main system serving all lots including all fire hydrants shall be installed prior to final plat approval(s). Applicant shall provide appropriate approvals regarding such systems. 34. The community sewer system including all sewer mains and sewer service pertaining to all lots shall be installed prior to final plat approval(s). Applicant shall provide appropriate approvals regarding such systems. 35. Applicant shall consult with the US Postal Service regarding mail delivery. If a centralized mail system is used, the location must be shown on the appropriate final plat. 36. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Madgic pointed out that there were two choices for condition #26, requiring a decision from the Commission. The first condition recommends a 35-foot setback, which would comprise of a 70-foot setback along Aajker Creek, as required by the Zoning Regulations. In the event the Commission thinks that should be public open space as recommended by the Master Plan, then the second condition #26, is the redesign of those lots to accommodate the creek into parkland. The applicant's representative Dennis Foreman, on behalf of Gaston Engineering stated that Meadowbrook Estates was the final infill of the Rea Sewer and Water District. Mr. Foreman stated that they were in agreement with all the conditions although they wanted to discuss conditions #18 and 26. He commented that Gooch Hill Road exists as a paved county road, approximately 22-feet wide and does not meet county road standards. According to the Bob Marvin and Associates traffic report there are 3400 adt's and this development will have an increase of 18 percent traffic on Gooch Hill Road. The County Road Department proposed that the applicant upgrade the road to a county collector standard road. He stated that they would agree to upgrade Gooch Hill Road to a county collector standard to the entrance way of the King Arthur Mobile Home Park; improve it to a county standard from the entrance way of King Arthur to the southside of Dogwood Avenue; and they would construct a right hand turn bay at Huffine Lane. For the additional widening of the road above and beyond a standard county road, they requested that credit be given for their impact fee. He stated that their preference was the first condition suggested for #26, stating that

there were comments at the Planning Board hearing that preservation of Aajker Creek was probably as well preserved in private ownership as it is in public, and a private owner would be more meticulous about maintaining it than if it was open to the public. Discussion took place regarding urban standards such as sidewalks, and pedestrian and bike trails. Mr. Foreman proposed a 10-foot wide public walkway between Lots 20 and 21 for access into the parkland. The applicant Gary Oakland summarized the history of the parcel and briefly explained plans for the proposed project. Attorney Susan Swimley addressed the impact fee policy and improvements to the roads. Ms. Swimley reiterated the improvements offered by the applicant and stated that both the expansion to a collector and the right-hand turn lane should be credited against the applicant's impact fees. Public comment: Bob Ingram and Rich McLane. They expressed concerns with flooding; traffic; road and water safety; and impacts on the stream and pond. It was suggested that the applicant upgrade Gooch Hill Road as a collector from Dogwood Avenue north to Huffine Lane. Mr. Foreman reiterated that this subdivision is proposed for single family residential homes, no multi-family, and the streets will be built to county standards, which has been ample in all other subdivisions for emergency traffic and school buses. Commissioner Mitchell noted a letter and photos that the Commission received from Bob and Kathy Fletcher expressing concern with fencing and protecting their property from access, which is adjacent to the proposed subdivision. They would like the Commission to consider a road access outlined in their letter. George Durkin, on behalf of the Road Department reiterated their request for the improvements on Gooch Hill Road, explaining the requirement is clearly stated in the Subdivision Regulations for primary access roads. He read from the regulations outlining the definitions for eligible and non-eligible credits, in reference to the impact fee credits. It was his opinion that the improvements to Gooch Hill Road should not be credited towards impact fees. Road and Bridge Superintendent Lee Provance clarified that the applicant asked that the determination be made today on the impact fees. Discussion took place regarding traffic safety, should there be both a left and right-hand turn lane installed at the intersection of Gooch Hill Road and Huffine Lane. He concurred that the improvements to a primary access were not subject for an impact fee credit. Commissioner Vincent explained concern with flood potential, both in and out of floodplains and areas adjacent to canals and irrigation ditches. Mr. Foreman replied that Aajker Creek is controlled by a head gate and that lining the ditch was not an option. Discussion followed regarding the Fletcher's suggestion that the access be moved further north. Commissioner Mitchell expressed concern with the impacts this subdivision would be creating and that there was nothing that addressed fencing or building across the creek. Her concerns were that the covenants allowed 3 pets; there was no parking allowed for recreational vehicles; not an adequate place for snow removal because the lots are small and compact; and the size of the lots was not consistent with neighboring subdivisions. She noted problems that would be created with traffic going through one subdivision to get to another, and questioned whether or not this kind of compactness is appropriate in this area, given potential water issues, the number of people, and limited access. Mr. Foreman stated that this proposal was a continuation of the Rea Subdivision that was always proposed, and several years ago this was approved as an extension of the King Arthur Mobile Home Park. He commented that burrow pits provide for snow removal storage and it would drain into storm retention ponds, which would be submitted to and approved by DEQ and the Road Department. Commissioner Murdock commented that in general he believed this subdivision applies with the goals and objectives of the 1990 Bozeman Area Master Plan, specifically the infill aspect. He stated that it comports with the zoning and that the central water and sewer was highly desirable. He did comment on some specific problems, and noted that he was not in favor of approving Lots 20, 21 and 22, where Aajker Creek runs through. He believed it should be part of the park. He also, suggested a walkway and trails plan for the interior, and he supported the Road Department's stand on the improvements and paving. He felt that the requirement for connecting two subdivisions caused conflicts and suggested having a cul-de-sac at the east end that adjoins the Fletcher's and show the easement on the plat. Commissioner Mitchell believed this could work, although she was concerned with the density and where the retention ponds would be located. She concurred with Commissioner Murdock's concern about access to the park and creek. She suggested that the developer work with the neighbors on the extension of Dogwood Drive. Commissioner Mitchell stated there were too many missing covenants and conditions that needed to be added and she wanted to see some of the impacts resolved before the subdivision was finalized. Ms. Madgic commented with regard to zoning, stating that most of these lots are above the minimum lot size required and the applicant is proposing to do single family residents, when in fact they can do multi-family. She noted that Aajker creek does not drain into an area larger than 25 square miles so there was not a requirement to do a floodplain delineation as is required to do on creeks that do, per the Subdivision Regulations. Discussion followed regarding the Farmer's Canal and if a floodplain delineation might be a requirement that would be appropriate in this case. It was determined that it would be the Commission's prerogative to request that information. Commissioner Vincent concurred that the subdivision is a viable project for this location, although he did share Commissioner Mitchell's concerns. He agreed that Lots 21, 22, and 23 should be dedicated to parkland, and that the road should be improved to county standard all the way to Dogwood Drive. His main concern was the Farmer's Canal, and he stated that before he could approve this subdivision, specifically with the lot configuration

immediately adjacent to the canal, he would need to look at material on this subject and convince himself it would be a safe place for homes. Therefore, he would need some time for consideration. Ms. Madgic stated that the applicant's representative had signed an extension form. Mr. Foreman confirmed that they were willing to work with the Sheriff and help mitigate what is acceptable, with regards to the Sheriff mitigation request. With the applicant's consent to a 30-day continuance, the Commission continued their decision until April 9, 2002.

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a request for preliminary plat approval by C & H Engineering and Surveying, Inc., on behalf of Homelands Development Company for the Green Hills Ranch Major Subdivision, located in the W ½ of Section 15, T3S, R5E, P.M.M., Gallatin County, Montana. The request is for a 71-lot, single-family residential subdivision on 330 acres located approximately eight miles south of the Bozeman City limits, generally described as 11258 Cottonwood Road. Water supply will be provided by individual wells within each lot, and sewage disposal will be provided by individual septic systems within each lot. No variances from the design standards of the Gallatin County Subdivision Regulations were requested. The proposed subdivision is located within the jurisdiction of the Gallatin County/Bozeman Area Master Plan, and outside the Gallatin County/Bozeman Area Zoning District. According to the Master Plan, this site is classified as Rural Residential. Rural Residential areas are outside of the Urban Growth Area which are encouraged to remain undeveloped and in agricultural production. Under the Rural Residential classification, development is generally permitted at a density of one unit per 20 acres. However, through the subdivision review procedure, density bonuses may be available on a sliding scale basis where a developer controls at least twenty-five (25) acres, and where the average net size of residential lots is limited to not more than one (1) acre, thereby maximizing the amount of land remaining in agricultural production or open space. The proposed subdivision will create 70 residential lots, with an average size of one acre, and a 91-acre agricultural/open space lot (Open Space C), which will be operated as a ranch under the direction of the Green Hills Ranch Open Space Management Plan. Open Space Lot C encompasses the existing ranch house, barns, and other agricultural structures. The applicant is proposing an additional building site within Open Space Lot C to accommodate a new home to be built for the family who will operate the ranch. The preliminary plat also provides 147 acres of common space parcels. Total open space within the proposed subdivision is approximately 238 acres, which represents 72% of the property. The County Commission needs to determine if the subdivision proposal complies with the Cluster Development option of the Gallatin County/Bozeman Area Master Plan. Mr. Johnson briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. With regards to roads/access he noted that the primary access to the subdivision is provided by Cottonwood Road, which is a state secondary highway, maintained by Gallatin County. According to the Gallatin County Road & Bridge Department, Cottonwood Road currently exceeds 100 trips per day. Section 7.F. of the Subdivision Regulations establishes improvement requirements for primary access roads. Because this met the criteria, the Gallatin County Road & Bridge Department required Cottonwood Road to be paved to a twenty-eight (28) foot width from the end of the existing pavement to the junction with Portnell Road. He stated that the developer is required to pay development impact fees, and there was some comment from the public in the school district that those fees be utilized on Cottonwood Road to the north to provide safety improvements up to Anderson School. Secondary access to the proposed subdivision will be provided by connections with existing public road right-of-ways within the adjacent Hyalite Foothills Subdivision No. 1 and No. 2. Section 7.A.3 requires that the subdivider to arrange the roads to provide for the continuation of roads between adjacent subdivided properties when such continuation is necessary for the convenient movement of traffic, effective provision of emergency service, and efficient provision of utilities. The unimproved sections of the two secondary access roads will need to be improved to county paved standards. Mr. Johnson stated that neighbors have legitimate concerns with additional traffic using the existing subdivision roads as a short cut to 19th and Cottonwood Road. He commented that there was a possible suggested solution of installing a gate. Although he was not comfortable with having a gate on a public right-of-way, one option may be that the status of the two portions of road from Hyalite Foothills No. 1 and 2, could be changed from a public right-of-way and revert back to a private right-of-way, which would not be dedicated for public use. This would eliminate concerns of staff and the Road Department as to who would be liable. If this were to take place, both subdivisions would have to come back with amended plat applications. He did not believe they would be creating a private gated subdivision, by making those private, as they already have their private accesses. Mr. Johnson stated the Anderson School District submitted a letter addressing their concerns about potential impacts the new subdivision would have on the school. In summary, district officials are asking that the subdivision be denied if the developer cannot provide adequate mitigation to offset impacts created by the subdivision and its new students. He stated that there were written proposals from the school and it

was his understanding the applicant reached an agreement with that district for the purposes of a voluntary mitigation. On February 26, 2002, the Gallatin County Planning Board held a public hearing for consideration of the proposal. After considering all submitted information and written and public testimony, the Board expressed concern about the proposed subdivision's impact on views, loss of open space, and additional traffic impacts to Cottonwood Road. However, the Board agreed that the subdivision proposal was well designed, and would be compatible with existing developments in the area. The Board motioned to approve the subdivision with the following recommendations to the Gallatin County Commission: the use of developer road impact fees should be applied to Cottonwood Road north of the subdivision; inclusion of a future trail in the design and improvements plans for Cottonwood Road; removal of the Rae Fire District requirement to provide vehicular access to the south of the Middle Cottonwood Ditch; installation of a pedestrian safety signage on Cottonwood Road at Anderson School; and eliminate the requirement to connect interior subdivision roads to roads within the Hyalite Foothills Subdivision. The County Commission needs to make the following determinations; 1) A determination as to whether or not the application complies with the Cluster Development option of the Gallatin County/Bozeman Area Master Plan; 2) A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and 3) A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves this subdivision application, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2.

The subdivider shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 3. *The subdivider shall obtain all necessary state and federal wetland permits (310 and 404) prior to final plat approval. Copies of the required permits shall be submitted to the Gallatin County Planning Department with the final plat application.* 4. A restrictive deed, transferring title of all common open space parcels within the subdivision to the Green Hills Ranch Homeowners' Association, shall be recorded in the Office of the Clerk and Recorder of Gallatin County simultaneously with the filing of the final plat for the subdivision. The deed shall contain the following restrictions: *a. That all open space shall be perpetual in nature. b. That further construction of residential dwellings in the open space is prohibited. c. That the open space shall not be further divided or subdivided. d. That any violation of the terms and conditions of the deed restrictions shall be reported to the Board of Directors of the Homeowners' Association.* 5. All road names for interior subdivision roads shall be approved by the Gallatin County GIS Department. 6. Interior subdivision road plans, road maintenance plans, drainage plans, lot access plans, STOP sign and other regulatory or warning signs, and road name sign plans shall be submitted to the County Road & Bridge Department prior to the construction of the interior subdivision roads. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 7. Encroachment permit(s) shall be obtained from the Gallatin County GIS Department for all access points on to Cottonwood Road. 8. *Forty-five (45) feet of additional right-of-way along Cottonwood Road, east of the centerline, shall be dedicated to the public for the entire length of the development.* 9. *Cottonwood Road shall be paved to a twenty-eight (28) foot arterial width from the end of the existing pavement to where the road veers southwest away from the project property line. Striping of Cottonwood Road shall be completed after paving.* 10. *The unimproved sections of the two secondary access roads (access road connections to Hyalite Foothills Subdivision No. 1 and No. 2) shall be improved to county paved standards.* 11. County standard road access (60 foot public right-of-way and gravel road) shall be provided to Tract A of COS No. 1126. 12. Interior subdivision roads shall lie within a 60-foot public dedicated right-of-way, and shall be constructed to county standards for paved roads. After paving, all interior roads shall be striped. 13. All interior cul-de-sacs shall be built to a County standard Fifty (50) foot radius with a paved surface acceptable to the local fire district. 14. All internal lots shall be limited to one driveway access. Each access shall be at least seventy-five (75) feet from the nearest intersection with Cottonwood Road. 15. *A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction.* 16. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), and shall be inspected and certified by a Montana registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county standards. 17. *With respect to paving of county maintained roads, a two (2) year written warranty, from the contractor, is required. This warranty shall be submitted to the Gallatin County Road and Bridge Department prior to final plat approval.* 18. *A written cost breakdown on all paving done on county roads shall be submitted for future payback reimbursements and road impact fee credit to the Gallatin County Road and Bridge Department prior to final plat approval.* 19. *The subdivider shall either: a) construct all interior and off-site roads as required prior to final plat approval or; b) enter into an improvements agreement with the County for the completion of all required road construction. The improvements agreement shall comply with all requirements of the Gallatin County*

Subdivision Regulations. 20. The subdivider shall be responsible for the shared maintenance of the secondary access roads with all affected parties. Any maintenance agreements shall be submitted to the County Road & Bridge Department. 21. Road name signs shall be installed at all intersections. 22. *STOP sign(s) shall be installed at all intersections with county maintained roads.* 23. A copy of the Homeowners' Association covenants shall be supplied to the County Road & Bridge Department prior to final plat approval. 24. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 25. No trails shall be located within Open Space Parcel A. 26. The subdivider shall provide a linear trail along Cottonwood Road within the subdivision. The linear trail shall lie within a 25-foot wide public easement, and be delineated on the final plat. The trail shall be constructed of natural fines material, with a particle size of less 3/8th inch, having a width of not less than six feet. 27. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 28. The subdivider shall notify the Hyalite Foothills Subdivision Property Owner's Association(s) of MDEQ submittals. 29. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 30. *Existing water rights within the Green Hills Ranch Subdivision shall be assigned to the 91-acre agricultural/open space Lot C.* 31. *A minimum 20 foot wide irrigation ditch maintenance easement, along both sides of all irrigation ditches within the subdivision, shall delineated on the final plat.* 32. *The subdivider shall file and record ditch easements in accordance with Section 76-3-504(10) MCA.* 33. *The subdivider shall take the appropriate measures to remove the Middle Cottonwood Ditch Company from any liability damage claims from the Green Hills Ranch Property Owners' Association or individual property owners within the Green Hills Ranch Subdivision.* 34. *The subdivider shall line the Middle Cottonwood irrigation ditch, under the direction of the Middle Cottonwood Ditch Company.* 35. *Written confirmation shall be obtained from all ditch user companies, stating that the proposed development and maintenance easements will not create adverse impacts on the operation and maintenance of the ditch within the subdivision.* 36. National Fire Protection Association standard fill site shall be installed within the subdivision at a location as determined by the Rae Rural Fire District Officials. Plans for the fill site shall be submitted to the Rae Rural Fire District for review prior to installation. The Rae Rural Fire District shall approve the final installation and operation of the fill site. 37. Rae Rural Fire District Officials shall provide written final approval of all required fire protection measures for the subdivision prior to final plat approval. 38. The subdivider shall provide Sheriff protection mitigation acceptable to the County Commission. 39. The subdivider record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 40. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 41. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 42. The subdivider shall consult with the US Postal Service with regard to mail service, and the type and location of mail receptacles. If a central located bank of mail receptacles is to be used, the location and access shall be shown on the final plat. 43. The subdivider shall contact the Montana Historical Society Historical Preservation Office if any item of historic potential significance is discovered during site construction within the subdivision. 44. A Homeowners' Association for the subdivision shall be created. 45. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for seismic zone 3, and National Fire Protection codes. b. The control of noxious weeds by the Homeowners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. c. The Homeowners' Association shall be responsible for the operation and maintenance of all common open space and all other common amenities within the subdivision. d. All lots shall have only one driveway access. Each driveway access point must be at least seventy-five (75) feet from the nearest road intersection. e. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads and trails. f. Property owners of the subdivision are informed that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical

sprays and the use of machinery early in the morning and sometimes late into the evening. g. All fire protection covenants as required by the Rae Rural Fire District. h. The artificial feeding of all big game wildlife shall be prohibited. i. All garbage shall be stored in animal-proof containers or be made unavailable to animals. j. Owners acknowledge that wildlife damage to landscaping will occur. Owners shall accept that risk and shall not file claims against the Owners Association or any other governing body for such damages. k. Fencing along the exterior boundaries of lots shall be prohibited. l. The taking of any wildlife species within the property is prohibited, except for catching fish. m. Pets shall be controlled by each homeowner, and not allowed to roam within the subdivision. n. All exterior building lights shall be reflected downward. o. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 46. A fully executed and notarized copy of the Restrictive and Protective Covenants for the Green Hills Ranch Subdivision shall be recorded among the records in the Office of the Clerk and Recorder of Gallatin County simultaneously with the filing of the Final Plat. 47. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to submitting an application for final plat approval. a. Articles of Organization or Incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Homeowners' Association. c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Public road easements. e. Improvements agreements. f. Certificate of a Licensed Title Abstractor *The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval.* 48. The subdivider shall have three (3) years to complete the above conditions and apply for final plat approval. Attorney Susan Swimley representing the applicant pointed out that this project was based on the 1990 Bozeman Area Master Plan, emphasizing that this was a planned area, but not a zoned area. Ms. Swimley addressed the adjacent subdivisions with regard to the road connections. She noted that Section 7.A.3. of the Subdivision Regulations require that the roads connect between subdivided properties, when such continuation is necessary for the convenient movement of traffic, effective provision of emergency services, and efficient provision of utilities. She submitted Exhibit "A", a letter from herself to Mr. Johnson, addressing the road issue. It was agreed that the connector roads were not necessary for convenient movement of traffic or efficient provision of utilities. Both subdivisions have sufficient access in other directions in order to move traffic and the utilities are being provided without those road issues. Ms. Swimley stated that the criteria that the Commission needed to look at is whether these roads are necessary for effective provisions of emergency services. They met with two representatives of the Hyalite Foothill Subdivision, the Sheriff and the Fire Service Area and came to an agreement. Both law enforcement and the fire department agreed that those roads should be built with the angular curves noted on the plat for the purposes of discouraging traffic and two different types of gates could be installed in order to eliminate through traffic. The proposed gates agreed to by the emergency services is a break away or bend down gate on the north access, and on the east access to Cougar Drive, it was agreed that it would more appropriate for a mechanical arm. It can be programmed to use the radio control that is similar to what is used by the fire and sheriff departments. She noted for the Commission that the applicant was in agreement to installing the gates, and if desired she proposed new language for conditions #10 and 20. The Road Department and the Planning Department did not support gating the roads. She explained that the Commission has the regulatory authority to make a finding that these connector roads are not necessary, based on that criteria and with that finding they would not need the connector roads. Ms. Swimley stated the Commission would hear testimony regarding water, the ranch, nitrates and the roads. In listening to that testimony, she asked that they set aside the passion and look at the factual basis for the claims. She stated that they have agreed to pay impact fees, improve the road and they were in agreement with all the conditions. Commissioner Murdock questioned if they would consent to make their agreement with the Anderson School a condition. Ms. Swimley stated they would be happy to include as a condition, their agreement to pay the school \$124,250, that is allocated out in different improvements which are safety addressed for the school. Land Planner Scott Doss gave a short presentation on how they arrived with the constraints design and elaborated on details of the proposal. Mr. Doss submitted Exhibit "B", a supplemental analysis and graphics for the Green Hills Ranch Subdivision. Using enlarged aerial graphics from the exhibit, he pointed out simulations of the project at build-out in context of existing development and agriculture, along with showing open space lots and landscape enhancements. He further explained economics of the Green Hills Ranch farming operation and the revenue potential for the farm element.

The Commission recessed for lunch.

Addressing wildlife issues, Wildlife Biologist Dr. Robert Eng stated the most visible wildlife in this area was elk and deer. The elk was not on the project itself, however they were sited about two and a half miles to the northwest. He commented that while most projects have some impact, this project has put a lot of effort into minimizing impact on wildlife. Another point that will ease the impact is the boundary

fence on the south end will be more wildlife friendly and the fence along the ditch will be removed. He stated there was very little diversity in terms of vegetation. Dr. Brian Sindelar on behalf of Rangehands Inc., described the agricultural aspects and some of the open space aspects of the development. He outlined how the project can integrate residential, agricultural and wildlife activities into a single sustainable rural landscape. He stated that Rangehands focuses to preserve agricultural land and spoke with regard to the specialty types of grasses and grains grown to improve farming. In conclusion, he believed there was strong potential for success at the Green Hills Ranch. Bob Ablen, on behalf of Robert Peccia & Associates explained the traffic impact study conducted in July 2001. Mr. Ablen noted that concerns of area residents at the Planning Board hearing prompted them to revisit the possible traffic impacts that would occur along Cottonwood Road as a result of the proposed subdivision. Traffic volume information was obtained from the Montana Department of Transportation for Cottonwood Road. Additionally, a traffic count was performed by Robert Peccia & Associates on Cottonwood Road in March 2002. The additional information showed that the traffic volumes used by RPA in the Traffic Impact Study were conservative and that the actual ADT is likely less than what was presented. He submitted Exhibit "C", the Traffic Impact Study of the Green Hills Ranch Subdivision, including the addendum. Using information from the Traffic Impact Study, several Level of Service calculations were conducted for Cottonwood Road using the existing roadway geometrics. The Level of Service measures were used to determine roadway flow characteristics and to determine how well a road way is functioning. Mr. Ablen gave a detailed explanation of those LOS. He concluded that the information showed the proposed development would have little affect on the traffic conditions along Cottonwood Road. Dr. Michael Nicklin gave a presentation regarding ground-water supply availability and nitrate ground-water quality data. He submitted Exhibit "D", Ground-water Supply/Ground-water Quality in the vicinity of the Green Hills Ranch Development. After giving a detailed analysis of his study regarding the water supply, Dr. Nicklin stated that there is an abundant ground-water supply for the purposes of serving the Green Hills Ranch Development and adjacent residents. In his conclusion of the water quality study, Dr. Nicklin stated that the implementation of the Green Hills Ranch Development will eliminate a substantial portion of the fertilizer component and the animal waste sources of nitrates. He stated that considering this, and considering the findings of the U.S. Geological Survey, there is no basis to assume that the nitrate loading associated with septic tanks will be higher than that caused by the current agricultural operation. Per Hjalmarsson, on behalf of C & H Engineering spoke regarding their submittal prepared for the proposal for MDEQ approval for non-degradation. He briefly discussed the pump tests, types of soil, and percolation tests. To accommodate the public, Commissioner Murdock allowed those members of the public with time constraints to speak first. Public comment: Arthur Layton; Tim Preso; Steve Kelly, submitted Exhibit "E", proposed plat of the Green Hills Ranch Subdivision with Elk Habitat; Mark Harold; Brian Ash; Eric Smidansky; Neil Westesen; Don McAndrew; John Frohnmayer, (representing Debra Butterfield and John Buck) submitted Exhibit "F", 180 degree photo of the current view shed and Exhibit "G", The Wilson Quarterly-Winter 2002; Rick Benson; William Olson; Lynne Olsen, submitted Exhibit "H", a USGS map; Neal Miller; Price Wills; Ellis Doney; Audrey Kick, submitted Exhibit "I", a written copy of her testimony; Steve O'Neil; and Wildlife Biologist Kurt Alt, submitted Exhibit "J", his written response to the proposal. The following yielded their time to others: Theresa Reiser; Shiela Benson; Craig Barber; Fred Opperman; Katherine Hiestand; Sarah O'Neil; Justin O'Neil; Tyler O'Neil; Dale Gilespeie; Daniel Voukos; Michelle Procnier; Joe Procnier; Sam Procnier and Tina Deweese. Concerns expressed were as follows: nitrate levels; lack of data; septic designs; water quality and quantity; safety of the ditch; loss of open space; wildlife habitat; fire safety; density; timing of the traffic study; property values; ground water recharge; loss of view shed; continuity of existing land; increased traffic on Cottonwood Road, Cougar Drive and Starling Drive; and should the proposal be approved it was requested that the applicant's voluntary school contribution become a condition of plat approval. Sheriff Jim Cashell commented on the impact of the development with regard to Sheriff services. He explained the importance of both accesses for emergency services. Sheriff Cashell met with the developer, Brian Crandell of the Rea Fire Service Area, and representatives of Hyalite Foothills and after discussion they agreed to look at gating the proposed accesses with conditions, to address concerns of Hyalite Foothills residents regarding traffic. His preference was to have no gates, however in discussion, they agreed that the traffic on the east connector road could be safely detoured by installing a raised arm gate. The gate would be operated by a mechanism agreed upon between law enforcement and the fire department. He stated that the north connection was not as imperative to emergency services due to its proximity to the proposed northern entrance off of Cottonwood into Green Hills and the existing entrance off of Cottonwood into Hyalite Foothills II. They agreed that a break away or fold down gate be placed across to detour traffic from using that connection. He pointed out their concerns were being able to activate the gates quickly without leaving their car; the maintenance of the road right-of way, such as plowing; who will pay the electric bill; and how would they activate the gate should the power fail. He stated that they agreed to look at it on an experimental basis and evaluate it to see if it would work. Sheriff Cashell stated that the applicant had agreed to pay the requested fee to mitigate Sheriff services, and pointed out that the fee covers a five year period. Chief Brian Crandell of the Rea Fire Department stated that he believed they

had addressed impacts caused by the subdivision and have mitigated those impacts. He addressed fire protection in the area, stating that the developer agrees that this area is in the interface and has agreed to adopt three principal types of mitigation for that, the first of which has to do with construction of the buildings; defensible space; and a perimeter fuel break. He stated that they addressed the access issue and agreed to support a pilot program with a gate with a variety of switches and manual overrides. The following testified by video: John Buck; Carmen McSpadden; Doug McSpadden; Les Housouer; Dean Drenzek; Lindsey Wimberg; Diane Whiton; and Lauri McCommon. Many of the same concerns were reiterated. It was suggested that the negotiated agreement between the applicant and the school be a condition of plat approval for the Green Hills Subdivision, along with having impact fees directed north on Cottonwood, in and around Anderson School for safety improvements. Mr. Johnson noted that there were numerous letters of written public testimony received by the Planning Department and forwarded to the Commission in advance of this hearing. The Commission also received letters and provided copies to the Planning Department. He stated in all, there were about 45 to 50 letters, and in summary all the information provided was reflective of what was testified to today and those same concerns are also part of the Planning Boards Findings of Fact and recommendation under written public testimony that was submitted. Mr. Johnson stated that all but one or two letters raised concerns about traffic, water quality, access, and schools. One or two of the letters were in support of the application. Commissioner Mitchell noted that the Commission had already received a good share of the letters written by those testifying via video. Ms. Swimley reiterated that the 1990 Bozeman Area Master Plan that was adopted by the Commission states that this is an area for growth and this is how growth should happen on the Green Hills Ranch. She explained that it is a parcel of land with more than 25 acres, owned by one person, lots averaging not less than one acre, and the rest has to be preserved in open space and agriculture. She confirmed for the Commission that there was no conservation easement in place on the open space and there could not be a conservation easement because they do not have a subdivision, and therefore they do not have a legal description. Ms. Swimley noted that condition #4, requires that the open space never be further divided or developed. She stated that the traffic study was conducted in July, redone in March and again by MDOT, and their study is higher with more traffic than the others and they were willing to use that number. In regards to mitigation for Cottonwood Road, she stated that they were paving the primary access to 28 feet and paying full impact fees, and the County has the ability to use those fees anywhere. She stated that the 1990 Bozeman Area Master Plan Update does not address view shed, however the developer did mitigate the view-shed impact and they will not violate the view shed. In response to comments of sprawl and leap frog, she stated that this is adjacent to existing subdivisions. Ms. Swimley stated that they believe the farm will work and that they provided sufficient evidence that it will. In conclusion, she asked the Commission to look at the density in the south foothills for comparison and how much of that is actually in the 1990 Bozeman Area Master Plan Update, because those are the rules they had to follow. She stated they followed those rules and met the Commission's obligations, provided the facts that support that this is a valid subdivision, and mitigated the impacts. She confirmed that the applicant was in agreement to add the negotiated agreement with Anderson School as a condition of final plat. In response to public comment, Dr. Nicklin verified that he has done subdivision work for various engineering firms. He stated that the work he performed will be reviewed by DEQ, and he was confident that his calculations would stand up. He addressed comments by Mr. O'Neil and stated that he was fairly certain that Mr. O'Neil had the wrong aquifer when he made his calculations. He went into detail as to how he arrived at his calculations. He noted that the ditch only flows two months out of the year, and he installed the well referred to by Mr. O'Neil, before the ditch was flowing so the water in the well was from the ground water system, not direct recharge from the ditch. Bill Dreyer on behalf of C & H Engineering stated that he performed a pump test on January 8, 2002, when the ditch was not running and it pumped 55 gallons per minute with minimal draw down. Commissioner Vincent noted differences of opinion with regards to one expert witness saying one thing and another saying something else. He commented that it would be his preference to take the time to study the testimony and make a decision on where the truth lies. He believed there was a catch 22, in that if the ditch were lined the recharge is essentially negated and if it is not lined, in his estimation they run the risk of flooding or ground saturation. He questioned whether they should be considering a subdivision on septic, if Mr. O'Neil was right, by stating that the aquifer is at the margin and that shallow. Commissioner Vincent requested Mr. O'Neil to restate his findings. Mr. O'Neil commented that Dr. Nicklin's pump test data suggested that somewhere during the test that water was being restricted and there was no flow. Another well was drilled and water was found at 320 feet, but it was not part of the unconfined system, it was a body unto itself. So Mr. O'Neil concluded that somewhere between the two wells the margin of the aquifer ended. He noted that a lot of water comes from the ditch and there would be no reason why the pump test would be 8 times greater than anywhere else if it was not pulling water from the ditch. He stated it would be the single worst thing for the water supply in Hyalite Foothills if the ditch were lined and homes were built there. George Durkin, on behalf of the Road Department stated that he would like to fix Cottonwood Road to the north, however not much could be done with the impact fees from this development. Mr. Durkin submitted Exhibit "K", MCA 7-14-2134, Removal of highway encroachment. He stated that the gate would be a

terrible precedent, as it had been done before and did not work. Upon reading the regulation, he did not believe the gate would be the answer and that it was not convenient for the movement of traffic. Commissioner Murdock stated that he liked having the homeowners association paying for the farm operation, and that it meets the efforts they have with the Open Lands Board. He agreed that the proposal was consistent with the 1990 Bozeman Area Master Plan, and because of this plan he liked the fact that there will be no development farther south. He shared the concerns of those in the Hyalite Foothills Subdivision, however he stated that he would have to have a legally defensible stand, to vote yes or no. He also commented that he would have a hard time denying others the same right to develop unless they had legitimate reasons, since Hyalite Foothills is already there. Commissioner Murdock was concerned with increased traffic on Cottonwood Road, and he did not like the traffic as originally proposed through Hyalite Foothills, although he believed it could be mitigated. He respected those who spoke regarding the possible water supply and water quality degradation issues, although he believed there were some honest professional differences of opinion in methodology. He was concerned with the unknown nitrate effect on the adjacent shallow wells and with the elk corridors although he believed they were mitigating that with the open space. He did not like the fire danger however, it was mitigable, and the applicant had mitigated the view shed by moving the homes farther north down the hillside. Commissioner Mitchell concurred with Commissioner Murdock's concerns except she disagreed with the gated accesses and was concerned about not having a straight access. She believed that the gate created a safety and a maintenance problem, as it has been tried and it did not work. She commented that this development was doable, but she was not sure that it mitigated all the impacts it creates with the way it is laid out. She was concerned by the neighboring communities lack of desire to add this development to the area. She stated the concept of agriculture and development was an experiment and she did not know how a farm would work around all the proposed homes. She added that this goes against what the Commission has recently learned at seminars regarding the most workable conservation easements and the hazards developed by floodplains. She was concerned about building below the ditch and reiterated that she was not sure this layout addressed all the impacts. Commissioner Mitchell stated that she was not clear on water and septic tanks, and because of the fact that the two professionals do not agree, tells her there is concern. Another concern was the lack of consistency when it comes to neighboring properties. Commissioner Vincent questioned the time line this proposal was under. Mr. Johnson replied that March 26th would be the 60th day, with regard to the statutory requirement, and the applicant did not sign a voluntary extension agreement. Mr. Johnson noted he would not be available on March 26th although he had full confidence that Gallatin County Planner Jennifer Madgic could take over in his absence. Ms. Swimley expressed concerned, because Mr. Johnson who has been involved, read all the material and gone through the public hearings will be gone until after the first of April, and Commissioner Murdock will be gone next week. She felt Ms. Madgic would do her best but that it would be an inconvenience taking on something she knows nothing about. Commissioner Vincent stated that in his opinion Ms. Madgic could formulate the conditions at the directive of the Commission, however he questioned if giving this responsibility to Ms. Madgic rather than Mr. Johnson would be the seed of a possible legal challenge? Ms. Swimley asked him if he was implying that he did not want to make a decision at this time? Commissioner Murdock preferred a continuance until March 26th, adding that he had confidence in Ms. Madgic. Commissioner Mitchell concurred with the continuance so the Commission could consider all the material and make sure all the impacts were mitigated. Ms. Swimley agreed to the continuance, although she commented that the Commission put them in an awkward position by requesting that they shorten their presentation and rebuttal. She requested the Commission to relay any questions through staff so they could respond in writing. Since public comment was closed, Commissioner Murdock announced that they could not accept any phone calls or written testimony from the public, the applicant or proponents on the advice of Chief Deputy Civil County Attorney Chris Gray. Ms. Swimley reiterated that she was unsure of the Commission's questions. Commissioner Vincent made it clear that he needed to go back through conflicted testimony with regard to the water and the ditch. In reference to the gate, in his estimation if they said no, they would present a totally unacceptable safety hazard for the children that live along that road, and if they were to say yes, he agreed with Commissioner Mitchell that they would set a very ill advised precedent. He also had a question in regard to state laws and the Plan and DEQ's involvement regarding water, public health, safety and septic. He personally did not believe that a subdivision of this size ought to be on individual septic and water, unless it had to be. He wanted to visit the site to check the view shed. Commissioner Murdock stated that he was not going to vote in favor if they did not get the second access issue mitigated along with the water concerns. The Commission continued their decision until March 26, 2002.

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There were no pending resolutions. There being no further business the meeting was adjourned at 6:38 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 19th DAY OF MARCH 2002

The meeting was called to order by Acting Chairman Jennifer Smith Mitchell at 9:00 A.M., at the Willson School Board Room. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Chairman Bill Murdock was on vacation.

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Acting Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

MARCH 11, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Sheriff Jim Cashell, and Commission Assistant Glenda Noyes. The Commissioners considered approval of a mobile data communication system task force interlocal agreement for the Sheriff's Office. The agreement is between the City of Bozeman, City of Helena, Yellowstone County, Gallatin County, Lewis and Clark County, Butte-Silverbow County, Cascade County, City of Great Falls, and the Montana Highway Patrol. This agreement creates an organization to administer and install the mobile data system that will cover from Billings to Great Falls (85%). Yellowstone County received a Federal grant to install the system with Motorola. The total grant is 3.7 million, Gallatin County's portion would be \$978,000. There is no match at this time, and the group named in the agreement will address maintenance fees down the road. Yellowstone County has also applied for federal funds in the amount of 10 million to place the system in the eastern part of the state and put more units into the cars. The interlocal agreement is needed in order to qualify for the funding. There will be a need to secure funds down the road to connect to CAD and Ileads. Commissioner Vincent made a motion to approve the mobile data communications system task force agreement for FY 2001-2002 between the named parties. Commissioner Murdock seconded the motion. In discussion Commissioner Vincent asked the Sheriff if the Western and Eastern systems will interface, and Mr. Cashell said that they would not. All voted aye. Motion carried with a vote of two to zero (Commissioner Mitchell was not present for the vote on this matter).

The Commissioners considered approval of an application for technical assistance from the Drug Court program office. Treatment Court could receive these funds from the Federal Drug Court program in order to develop a retreat program to increase cooperation. No funds are needed from the County, any required match will come from the program. Only two drug courts in the nation were offered this money and Gallatin County was selected. The Judges requested the application and the County must be the entity to apply. Commissioner Vincent made a motion to approve and support the application for technical assistant monies for the Drug Court program. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a request from the City-County Health Department for an expenditure of \$1,900 from capital outlay, as a result of a Covering Kids grant. Commissioner Mitchell made a motion to approve said expenditure. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the HRDC 2002/2003 Community Service Block Grant Work Plan. Commissioner Vincent made a motion to approve said plan. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of asset disposals of five vehicles from the Sheriff's Office fleet. Commissioner Mitchell made a motion to approve the request, noting that the public safety fund indicates the revenue for the sale of these fixed assets. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed and considered approval of a change order request from the Phase III, IV construction in order to pay for a chain link fence around the Clerk and Recorder records, as it was initially overlooked. Commissioner Murdock made a motion to approve the change order request in the amount of \$415.00 to come from contingency. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

- The Commissioners attended a regularly scheduled GIS monthly meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, and GIS Coordinator Allen Armstrong. Mr. Armstrong requested permission to pursue doing work for Madison and Broadwater Counties, with compensation. The Commission instructed Mr. Armstrong to pursue doing so, with the

understanding that Gallatin County priorities are to remain as top priority, and the other counties will compensate Gallatin County for Mr. Armstrong's time and resources.

- The Commissioners attended a regularly scheduled Human Resources meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Human Resources Director Randy Kuyath, and Commission Assistant Glenda Noyes. The Commissioners considered approval of an Eden contract in order to create a report to submit employee addresses to MPERA on a monthly basis along with the existing retirement report. Commissioner Vincent made a motion to approve said contract. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

MARCH 12-14, 2002

- The Commissioners conducted regular County business.

MARCH 15, 2002

- The Commissioners attended a special meeting for the purpose of signing a TSEP contract. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, and Commission Assistant Glenda Noyes. The TSEP contract is for bridge projects/engineering review. The grant would allow for repair of two or three bridges, those with the highest needs – which would be assessed in the engineering review. This grant requires a dollar for dollar match, \$5,000, which would come from the Bridge Department budget. Commissioner Vincent made a motion to approve the contract with Morrison-Maierle for an engineering contract under the TSEP grant. Commissioner Murdock seconded the motion. All voted aye.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated March 14, 2002 in the amount of \$387,938.58.
2. Application for Cancellation of Taxes in the Amount of \$72.65.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Vincent moved to adopt the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Commissioner Mitchell announced the signing ceremony for the Memorandum of Understanding among the U.S. Department of Interior, U.S. Department of Agriculture, and the State of Montana concerning a coordinated ecosystem approach to planning in Gallatin County. (Bureau of Land Management; Yellowstone National Park; Gallatin National Forest; Gallatin Conservation District; Montana Department of Natural Resources and Conservation; Montana Department of Fish, Wildlife and Parks; and Gallatin County Commission. Gallatin County Planner Lanette Windemaker reported these parties originally signed this MOU in July 1995, which included a five-year sunset renewal provision. Ms. Windemaker noted there have been some minor changes to the document. She stated that they have found the document to be very effective in getting numerous projects handled and helped people's response to fire emergencies in Gallatin County. From a Planning standpoint they felt this project was very effective in helping them receive a grant from the Federal government. She acknowledged those in attendance to sign the MOU. Commissioner Vincent read the five major goals: Share, when appropriate, available resources, personnel, funds and technical assistance; Recognize the philosophies and principles of all the parties to this MOU in providing a range of goods and services to all people who choose to use and enjoy our public lands; Develop and exchange information related to land management decisions, socio-cultural values, economic considerations and natural resource conditions; Consider the community values, opinions, and perceptions of the residents of Gallatin County as a part of overall public participation; and share, when appropriate, training workshops, technical sessions. Those in attendance gathered to sign the MOU. Dale Beland, speaking as a taxpayer and former participant complemented Gallatin County. He pointed out to the press that this is an opportunity for real recognition, achievement and success by government. He noted that Gallatin County was very progressive five years ago and continues by endorsing a cooperative governmental effort intended to serve taxpayers more effectively and more efficiently. He commented that this has been proven more successful in receiving the large grant, along with a digital ortho-photo pod computer photo base for the entire county, and the only one in the state of Montana. This information is available through the GIS Department. Mr. Beland also, noted that Gallatin County has received national recognition for its positive planning interests, as well as a very valuable database for wildlife habitat directly because of this agreement. That allowed MSU to bring forward their resources and conduct the study now available in the database. Mr. Beland congratulated Gallatin County and commented that these things

make a big difference and government can do smart things and good things that are helpful and cost effective.

Board appointments for the 4-Dot Meadows Water District. Creation of the 4-Dot Meadows Water District was approved within the District on November 2, 1999 and the Certificate of Incorporation was issued on December 15, 1999. To date, a Board of Directors of the District has not yet been appointed or elected. Pursuant to 7-13-2262 (3), "If there are no directors remaining on the board and no nominees for any director position to be elected, the County Commissioners may appoint the number of directors specified in 7-13-2232 (1)[...the board of directors shall consist of five members or three members if there are 10 or less qualified electors in the district.]" According to Deputy County Attorney Kate Dinwiddie, the County Commissioners should appoint three members as directors for the 4-Dot Meadows Water District. Five individuals applied to serve in these positions, Elizabeth A. Beauchame, Robin Wanner, Gabriel Roffe, Kimberly Brainard, and Thomas Langel. According to Ms. Dinwiddie, Robin Wanner, Kimberly Brainard and Thomas Langel qualify to serve as directors based on property ownership within the District. If appointed, Attorney for the District, John Brown, recommended Ms. Wanner serve a two-year term and Ms. Brainard and Mr. Langel each serve a four-year term. Ms. Dinwiddie confirmed that this is permissible under statute. Attorney John Brown confirmed that this sewer district has existed since 1999, and is now being reactivated. After discussion with the County Attorney it was determined because there were less than 10 electors, they were only entitled to three directors. He pointed out that these three all qualify to serve as electors and own land in the district. On behalf of the District, he asked that they be appointed. Mr. Brown confirmed there was agreement among the three nominees relative to their length of term. Commissioner Vincent moved to appoint Robin Wanner, Kimberly Brainard, and Thomas Langel to the 4-Dot Meadows Water District, with Ms. Wanner serving a two year term, and Ms. Brainard and Mr. Langel each serving a four year term. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Commissioner Mitchell announced that regular agenda Item 3, receipt and opening of bids for construction of Road Improvements and Chip Sealing Projects was continued until March 26, 2002.

Gallatin County Clerk and Recorder Shelley Vance reported on the passage of a resolution on the decision concerning a petition to abandon a portion of Sun Field Drive in the Belgrade Commercial Park Subdivision, Phase I. The Commission held a public hearing to abandon the portion of Sun Field Drive on February 26, 2002, there was no public comment and the Commission took action to abandon the road. Commissioner Vincent moved to adopt Resolution #2002-032. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Weed District Supervisor Dennis Hengel reported on the consideration of a resolution of intent to amend the Weed District FY 2002 budget to include unanticipated and 16-Mile cooperative grant revenues in the amount of \$38,167. There was no public comment. Commissioner Vincent moved to adopt Resolution of Intention #2002-033. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of the Planning Department Policy #2002-01, regarding acceptance of preliminary plat applications. Ms. Madgic stated that this was reiteration of the current policy in the Subdivision Regulations. She explained that due to the increasing workload and increasing complexity involved with preliminary plat reviews, and in consideration of providing the best service to the public, it is the policy to reject incomplete preliminary plat applications. She noted a change in Item 2 under policy to read as follows: Preliminary plat applications shall be submitted in person to the Planner of the Day, or a planner, for initial determination of completeness. Following initial acceptance, staff may determine that deficiencies exist, in which case applicants may be asked to retrieve and complete their applications. Appointments with planners are recommended. Ms. Madgic confirmed this process with Chief Deputy Civil County Attorney Chris Gray and he was in agreement. There was no public comment. Commissioner Vincent moved to adopt Administrative Policy #2002-01, effect March 19, 2002. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Community Corrections FY 2002 budget to include unanticipated revenues in the amount of \$500. There was no public comment. Commissioner Vincent moved to adopt Resolution #2002-34. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution authorizing the Gallatin Gateway Rural Fire District Board of Trustees to use fire impact fees for the purchase of a water tender pursuant to the District Resolution #2001-03. There was no public comment. Commissioner Vincent moved to adopt Resolution #2002-035. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Clerk and Recorder Shelley Vance reported on the consideration of a resolution of intent to increase the Gallatin County operating budget to include unanticipated revenue of \$12,764, for the Clerk and Recorder budget for FY 2002. There was no public comment. Commissioner Vincent moved to adopt Resolution of Intention #2002-036. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

There was no one available from the Superintendent of Schools to present receipt and consideration of petitions to reopen the Malmborg School District and the Cottonwood School District. The Commission took a brief recess to contact her office. Commissioner Mitchell continued on to the next agenda item while waiting for the Superintendent of Schools.

Gallatin County Planner Jennifer Koozer reported on the consideration of a resolution to approve the Coughlin set back variance in the Bridger Canyon Zoning District. A public hearing was held regarding this variance on February 14, 2002, before the Bridger Canyon Planning and Zoning Commission, and no members of the public testified and the Planning and Zoning Commission recommended to the County Commission that the variance be approved pursuant to their Resolution #2002-02. Representing the applicant, Ray Center of Rocky Mountain Engineering was available to answer any questions. Commissioner Vincent moved to adopt Resolution #2002-037. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Superintendent of Schools Jill Richards reported on receipt and consideration of a petition to reopen the Malmborg School District and the Cottonwood School District. Ms. Richards explained that these schools have been non-operative although not officially closed; therefore they have the legal ability to petition the reopening. She examined the applications and noted they were all in order and the information is true and correct. She urged the Commission to give these schools the permission to reopen the following school year. The law requires the Commission to look at these petitions for approval before being sent to the state because sometimes schools reopen in the middle of the year and they have an impact on the transportation and the school retirement fund. Since these schools are starting a new year and a new taxing system and cycle it will not have any impact on the current budget. Therefore, Ms. Richards stated that she found no reason not to grant permission to reopen the schools. Discussion took place regarding the impact on next years school budget. Ms. Richards stated that it would be the same as when they were open, along with noting that transportation would not be an issue as there are no school busses. She stated that they already have a budget and will have to pass a mill levy, of which they are responsible. Commissioner Vincent expressed concern where mill levies have not passed in some of the smaller districts. Ms. Richards noted if their mill levy does not pass they would not reopen. Discussion followed with regard to which schools the children were currently attending and the problems with the school district lines. Public comment: Debbie Maloney, Chair of the Cottonwood School Board and Jackie Woosley, Chair for the Malmborg School. Both spoke regarding the public interest in reopening the schools. Commissioner Vincent moved to accept the petition requesting the reopening of Cottonwood School District #22, and approve the recommendation of the County Superintendent to reopen the school. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Vincent moved to accept the petition to reopen Malmborg School District #47, and approve the request and recommendation of the County Superintendent to reopen the school. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman reported on a pending resolution amending the Gallatin County final operating budgets for receipt of unanticipated monies and to balance expenditures for FY 2001. Mr. Blackman explained this was a correction of Resolution #2002-140, passed on December 18, 2001. He noted that the external auditors during their final review found that the original resolution did not include budget amendments for Employee Health Insurance, 911 Communications, Liability Insurance, and the Logan Landfill. Gallatin County Clerk and Recorder Shelly Vance clarified that this was an amendment to Resolution #2001-140. There was no public comment. Commissioner Vincent moved to approve Resolution #2001-140A. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

There being no further business the meeting was adjourned at 10:20 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 26th DAY OF MARCH 2002

The meeting was called to order by Chairman Bill Murdock at 9:06 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

MARCH 18, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, and Commission Assistant Glenda Noyes. The Commissioners considered approval of an asset disposal request from the Sheriff's Office for a patrol car. Commissioner Mitchell made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioners also discussed the dog control ordinance and a request from MARLS for monument removal – no action was taken regarding these matters.

MARCH 19, 2002

- The Commissioners conducted regular County business.

MARCH 20, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, Accounting Clerks Jennifer Blossom, Renee Huyser, and Liane Bennett, and Commission Assistant Glenda Noyes. The Commissioners considered approval of a claim, check number 8009016, totaling \$155.00 for MRDTF. Commissioner Vincent made a motion to approve said claim. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of the signing of a grant reimbursement agreement with Dawson and Custer Counties for the 9-1-1 appropriation. An MOU was originally signed, and this is a traditional grant reimbursement agreement. Custer and Dawson counties have both signed. Commissioner Vincent made a motion to approve said agreement, noting that this is being done in lieu of the MOU. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a drawdown request, #2, for the Rae Water and Sewer District CDBG project, per the contract. This is for a \$21,000 payment to the engineer. Commissioner Vincent made a motion to approve said drawdown request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a transfer of budget authority for the Community Corrections program. Commissioner Vincent made a motion to approve said transfer. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

MARCH 21-22, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated March 21, 2002 in the amount of \$295,941.10.
2. Request for Mortgage Survey Exemption for Darwin Schmidt, located in the S ½ SW ¼ NW ¼ of Section 2, T3S, R5E (8150 Fowler Lane). Gallatin County Planner Sean O’Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Construction Financing Exemption for John McKenna, located in the SW ¼ of Section 32, T1N, R5E (1925 Baseline Road). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock announced that the presenter for regular agenda Item #3, regarding the Montana Spay/Neuter Task Force would be running late, therefore they would re-adjust the agenda to allow for the presentation later on. He also noted that public comment for the Green Hills Subdivision was closed.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Mitchell moved to approve consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.

The vacant position on the Gallatin River Rural Fire District was resolved with nominating petitions and acclamation. The Commissioners did not need to take any action. Two vacancies exist on the Middle Cottonwood Board of Adjustments due to the term expirations of Donald Wahl and Anne Rusoff. These are two-year terms expiring on March 31, 2004. Both members were contacted and have expressed desire to be reappointed. There was no public comment. Commissioner Vincent nominated Donald Wahl. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved appoint to Anne Rusoff. Seconded by Commissioner Vincent. None voting nay. Motion carried. One vacancy exists on the Gallatin County Planning Board due to the resignation of Paulette Neishiem. The individual appointed to fill this term will serve out Ms. Neishiem’s term, to expire July 31, 2002. Three applications were received from Christina Boyle, Stanley McHann, Jr., and Shannon Nygard. There was no public comment. The Commission concurred that they were not prepared to make a decision at this time and that it would be best to continue the appointment until April 2, 2002.

Gallatin County Road and Bridge Superintendent Lee Provance reported on receipt of the opening of bids for construction of road improvements and chip sealing projects. There were three bids received. The roads included in the bid were Cottonwood, Valley Center, Gooch Hill, Nelson, Gateway South, Camp Creek, and West Amsterdam Roads. Mr. Provance announced the following bids: Big Sky Asphalt, Inc., addendum acknowledged, total bid \$268,688.68; JTL Group, Inc., addendum acknowledged, total bid \$252,660.00; and Riverside Contracting, Inc., addendum acknowledged total bid \$382,592.55. He requested that the bids be taken under advisement for one week and make a recommendation on April 2, 2002.

Item 3, consideration of Montana Spay/Neuter Task Force request for endorsement was continued until later on.

Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution of intent authorizing the Three Forks Rural Fire District Board of Trustees to use fire impact fees for the purchase of a slide-in tank and pump unit pursuant to the District Resolution #2002-03. Three Forks Fire Chief Bruce Felz explained that they were updating their current truck by putting on a new tank and pump. There was no public comment. Commissioner Mitchell moved to approve Resolution of Intention #2002-38. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Treasurer Anna Rosenberry presented the Treasurer's quarterly report. Ms. Rosenberry briefly summarized the report, noting that the external auditor confirms these balances with the banks and investment companies. She asked that the Commission accept the report. There was no public comment. Commissioner Mitchell moved to accept the quarterly report of the Treasurer, dated December 31, 2001. Seconded by Commissioner Vincent. None voting nay. Motion carried.

I, Anna Rosenberry, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on December 31, 2001 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS IN TRANSIT</u>	<u>OTHER REC ITEMS</u>	<u>TREASURER'S BALANCES</u>
Wells Fargo, Bozeman Branch	4E+08	\$3,269,538.83	(\$541,811.55)	\$1,349,703.49	(\$84,635.17)	\$3,992,795.60
	4E+08	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	7.5E+08	\$800,000.00	\$0.00	\$0.00	\$0.00	\$800,000.00
	4E+08	\$0.00	\$0.00	\$0.00	\$2,579,235.29	\$2,579,235.29
AMERICAN BANK	2.8E+08	\$4,815.06	\$0.00	\$30,551.69	\$0.00	\$35,366.75
VALLEY BANK OF BELGRADE	108103	\$5,540.55	\$0.00	\$4,539.29	(\$8,442.27)	\$1,637.57
MANHATTAN STATE BANK	4100013	\$6,125.11	\$0.00	\$1,414.40	(\$7,574.86)	(\$35.35)
SECURITY BANK, THREE FORKS	5200116	\$4,534.55	\$0.00	\$571.25	(\$2,671.96)	\$2,433.84
FIRST SECURITY BANK, WY	700351	\$6,771.07	\$0.00	\$176.76	(\$6,005.49)	\$942.34
BIG SKY WESTERN BANK	101710	\$3,932.44	\$0.00	\$0.00	(\$25.00)	\$3,907.44
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$0.00	\$100.00
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		\$4,101,357.61	(\$541,811.55)	\$1,386,956.88	\$2,469,880.54	\$7,416,383.48
				Cash		\$493,673.21
				School Investments		\$9,589,628.86
				Airport Authority		\$10,015,773.32
				County and Pooled Investments		\$35,883,357.58
				-----		-----
				TOTAL Cash on Hand		\$63,398,816.45

Phil Forbes on behalf of Morrison-Maierle reported on the consideration of a resolution of intention to establish the Looking Glass RID #380, noting that this was the second time before the Commission with regard to creation of this RID. The petition for this RID was circulated in accordance with policy, and there were three parcels identified within the boundary as not being accessible. Those parcels are described as COS 209, 887 and Remainder Tract D. The petition included estimates for a 20-year payback on the RID bonds. Because of recent economic events, they do not believe a 20-year bond would now be marketable, so they will proceed with a 15-year term, which would result in an increase of about \$25 per year, per lot. Mr. Forbes noted there were still a number of undeveloped lots without water and sewer extensions, which was the reason for the delay in the first place. Letters were sent to all owners, both with and without water and sewer services making them aware of the implications for cutting the pavement should some of the owners fail to extend their services. Mr. Forbes shared the Commission's concern with regard to cutting the pavement to extend those services after the fact however, he noted that Ms. Swimley the County's RID representative advised against including that work in this RID because of the implications of long term maintenance. He commented if the resolution of intention were passed, the owners would have the knowledge to make their decision of whether or not

to protest the creation. There was no public comment. Mr. Forbes explained that in order to pledge the revolving fund the Commission needed to make the following findings: The estimated market value of the property in the district is increased by more than the special assessment; The ownership of the property is diverse finding that there are a total of 31 assessable lots, tracts or parcels in the proposed district. In 2 instances 2 lots are held in joint ownership. In another instance one person owns a lot individually and the same person owns another lot jointly; There are 0 special assessments due in this district; There is 1 mortgage backed bond or levy of record against property in this district. That bond is for Water and Sewer District #363. The balance payable on this bond is \$4,580,000.00. Other properties, outside this district, secure this bond; There is 1 delinquent tax in the district totaling \$518.80; There are 31 assessable lots, parcels or tracts in this district. The total value before improvement is approximately \$3,328,500.00. The total market value after improvements is increased by the amount of the assessment. The delinquencies do not raise an issue of concern for the Commission regarding this Rural Improvement District; The public will receive benefit of improvement to the road surface, access, traffic flow, storm drainage, and yearly maintenance; This is not a newly platted subdivision. Meadow Village Subdivision #2 was filed prior to December 1971 and the majority of the lots are in the 25-lot Addition, which was platted in 1991. Gallatin County Attorney Marty Lambert outlined the time line set for publication of notices and the protest period, noting that the public hearing would be held on April 16, 2002. Commissioner Mitchell moved to approve Resolution of Intention #RID-02-380A, creating RID #380, and accepting the findings as detailed by Phil Forbes, setting the protest hearing for March 29th through April 12th, and setting the public hearing for April 16, 2002. Seconded by Commissioner Vincent. Commissioner Murdock added the finding that this RID based on the information presented, would serve the public interest and convenience and that they would pledge the revolving fund to secure the RID. Commissioner Mitchell added that the County Attorney has reviewed this thoroughly and provided adequate advice. None voting nay. Motion carried.

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Ellen King Rogers reported on the consideration of the Montana Spay/Neuter Task Force request for endorsement. Ms. Rogers submitted and briefly discussed Exhibit "A", Montana Spay/Neuter Task Force Information Synopsis. She outlined the Task Force history and accomplishments. She explained that the Spay/Neuter Task Force offers their services free of charge. They are supported by various agencies along with major grants and supply their own operating equipment. The only expense for the host community would be providing the facility, laundry services, lodging and food for the veterinarians and vet techs. She pointed out that Dave Pauli of HSUS, Northern Rockies, often attends the events to assist, along with knocking on doors to inform the public of the event and even transporting animals to and from their homes. They will be passing out coupons, educational materials and visiting the schools. They are proposing that the event be held in the last week of September, possibly at the Fairgrounds. Ms. Rogers stated an endorsement from the Commission would be appreciated and her desire would be that the County co-host the event with the City who had already agreed. They would then draft a letter to be sent out from the County/City to all the veterinarians in the area. Discussion took place with regards to the importance of this event; securing and the cost and rental of a facility, possibly the Fairgrounds; services, such as laundry, lodging and food needed to perform the services; and the County's support and endorsement. Commissioner Mitchell suggested the Task Force return with a proclamation. There was no public comment. The Commission was in support of giving their initial endorsement of the Task Force efforts, subject to a more formal endorsement of a resolution and the adoption of a proclamation.

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Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a request for a family transfer exemption for Betty D. Velten, located in the NW ¼ of Section 23, T3N, R7E. (County Road 299, also known as Muddy Creek Road). Mr. O'Callaghan briefly summarized the history and timeline of the exemption, as follows: 3/30/99-Bradley Amundson sold the NW ¼ of Section 23, T3N, R7E to Betty D. Velten; 6/10/99-Using the family transfer exemption, Betty D. Velten transferred Tract A as defined by COS 2109 to Mark E. Velten; 2/07/00 Mark E. Velten sold Tract A to Bradley M. & Debra J. Amundson; and currently-Betty D. Velten is proposing to create two new parcels of land using the family transfer exemption. Tract B1 will be transferred to Edward L. Velten, her husband. Tract B2 will be transferred to Lynn Velten, her daughter. Mark Velten representing Betty Velten was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Mr. Velten stated the Bradley Amundson did not sell this property to Betty Velten, and she purchased the property in 1994 from the Buffalo Springs Partnership. Mr. Amundson was a partner of Ms. Velten. Because Mr. Velten stated that he was involved in real estate, Commissioner Murdock requested that he explain his involvement.

Mr. O'Callaghan submitted Exhibit "A", a deed for the NW ¼ of Section 23, T3N, R7E (the property in question) from Mr. Amundson to Ms. Velten, dated February 2, 1999. The applicant's surveyor Barney Hallin pointed out that Ms. Velten and Mr. Amundson purchased the property in 1994 from Buffalo Springs Partnership. He believed that Ms. Velten had 87% of the partnership and Mr. Amundson had 12.8%, and Exhibit "A" was Mr. Amundson deeding off his interest in the partnership. Mr. Velten confirmed that the family members did not intend to sell or build on the parcels. He noted that the purpose of the prior family transfer was to dissolve a partnership, and they were advised that this was the easiest way to handle the situation. Commissioner Murdock stated that it should have been done through a minor subdivision, and because of the way it was handled, it tainted this family transfer, and based on the history it was creating a pattern of un-reviewed tracts. Mr. Velten reiterated that it was strictly an allocation within the family and Mr. Amundson genuinely had interest in the property. Gallatin County Attorney Marty Lambert agreed that there was definitely evidence, should a decision be made today that this attempted use of the exemption would be for the purpose of evading subdivision review. He suggested the Commission give him time to review the history and purpose, before making a decision. Although he did not believe he was misinformed by the applicant, Commissioner Murdock commented that if he were forced to make a decision today he would not vote favorably because he did not think it was right to use the exemption because of the prior transaction. The Commission concurred it would be best that it be turned over to the County Attorney for further review. Mr. Velten consented to an extension. The decision was continued until April 9, 2002.

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Gallatin County Planner Jennifer Koozer reported on the public hearing and consideration of a request for preliminary plat approval by Lewis Burton and Associates on behalf of Robert and Janice Remer for the Remer Subsequent Minor Subdivision (Amended Plat Lake Subdivision, #2 Block 1, Lot 7& 8, located in the SW ¼ of Section 22, T1S, R5E, PMM, Gallatin County, Montana, and generally located on Lake Drive, north of Valley Center and south of I-90. The request is to subdivide two residential lots into three residential lots. The property owners within Lake's Subdivision have initiated the Rural Improvement District process for the paving of Lake Drive, and a draft petition has been submitted to the Clerk and Recorder's office for review. However, pursuant to Subdivision Regulations Section 7.F.3, paving of Lake Drive will be required prior to final plat approval of the subsequent minor subdivision. If paving has not been completed through the RID process, the applicant will be required to complete paving. It was Ms. Koozer's understanding that the applicant started the subdivision process so that once the RID goes through they would be responsible to pay for the three lots, rather than two. This was done as a gesture of good faith for the neighbors. Notice of the proposal hearings were published in the High Country Independent Press on February 14 and 21, 2002. Notice was sent by certified mail to adjacent property owners, and as of March 4, 2002, no comments were received. The Gallatin County Planning Board reviewed the proposal on March 12, 2002. The Board recommended that staff-suggested condition #17 (Sheriff mitigation) be deleted (4:2 vote). The Board found the proposal to be in conformance with the Montana Subdivision and Platting Act, the Gallatin County Subdivision Regulations and the Gallatin County Plan, and recommended that the subdivision be approved subject to the staff-suggested conditions as modified during the meeting (6:0 vote). Ms. Koozer briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the Commission's decision shall be whether the preliminary plat and additional information demonstrate the development of the subdivision meets the requirements of: The Montana Subdivision and Platting Act; The Gallatin County Subdivision Regulations; and The Gallatin County Plan, including the 1990 Bozeman Area Master Plan Update. If the Commission finds that the subdivision meets the requirements and approves the subdivision, the following conditions for final plat approval are suggested: The Commission has one determination to make with this application: A determination as to whether the proposed subdivision should be approved. The basis for the Commission's decision shall be whether the preliminary plat and additional information demonstrate that development of the subdivision meets the requirements of: The Montana Subdivision and Platting Act. The Gallatin County Subdivision Regulations. The Gallatin County Plan, including the 1990 Bozeman Area Master Plan Update. If the Commission finds that the subdivision meets the requirements above and approves the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. The subdivision shall be reviewed and approved under the Montana Sanitation in Subdivisions Act. Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained. 3. The subdivision shall join the existing Lake's Subdivision property owners association, which shall be responsible for all road maintenance. 4. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval: a. Articles of organization and/or

incorporation for the property owners' association approved by the Secretary of State of the State of Montana, including written confirmation that this subdivision is included such property owners' association. b. Bylaws controlling the operation of the property owners' association. c. Restrictive and protective covenants encumbering the real property contained within this subdivision. d. Certificate of a licensed title abstractor. 5. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, and the creation of a sewer and/or water district. 6. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 7. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval(s). 8. Applicant shall record the following covenants on or with the final plat(s): a) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* c) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* e) *The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads.* f) *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3.* g) *Lot owners acknowledge the presence of an active ditch and potentially high groundwater. Lot owners recognize that flooding and high groundwater are possible and accept responsibility for the location of structures and improvements.* H) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 9. Lake Drive shall be paved to County standards from Valley Center Road to the western property line of Lot 7A. 10. If Lake Drive is paved by the subdivider (and not through the RID or other process): a. A pre-construction meeting shall be set with the County Road Department prior to the start of any construction. b. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing. Confirmation of the Road Department's approval shall be provided to the Planning Department. 11. The final plat shall contain a statement for Lot 7A and Lot 8 requiring lot accesses be built to Gallatin County Subdivision Regulation standards and limiting accesses to one per lot. 12. The final plat shall include an irrigation ditch easement that is at least 15 feet wide on one side of the ditch and at least 5 feet wide on the other side of the ditch. 13. A copy of the property owners' association bylaws shall be submitted to the County Road Department prior to final approval. 14. Applicant shall pay road impact fees in accordance with the Gallatin County Road Impact Fee standards. 15. Applicant shall pay fire impact fees in accordance with the Gallatin County Fire Impact Fee standards. 16. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Belgrade Rural Fire District. Applicant shall provide a final subdivision plat to the Belgrade Rural Fire District and shall provide written verification from the District that all fire protection requirements have been met. 17. Applicant's shall provide a mitigation plan for sheriff services that is acceptable to the County Commission. (Note: Planning Board recommended that this condition not be required.) 18. Applicant shall have up to three (3) years to complete these conditions and apply for final plat approval. Discussion took place with regard to condition #8g, and the issue of potential flooding. Ms. Koozer stated that the condition is to make sure the applicants acknowledge the fact they are in an area of high ground water and surface water and not compelling them to release Gallatin County from any liability. The language in the condition was reviewed and approved by Gallatin County Attorney Kate Dinwiddie. Oh behalf of Lewis Burton and Associates, Joe Kmetz reported that they were expecting the RID to go through. However if it did not go through the applicant could not afford to pave the entire Lake Drive

and, therefore would not go through with this subsequent minor. He objected to conditions #9 and 10. There was no public comment. Commissioner Mitchell commented it would be best to see the RID go through first and then the subdivision so the applicant would be assured of not having to pay for the paving should the RID not go through. George Durkin on behalf of the Road Department commented that he was aware of the RID process, although he had to stand by the Subdivision Regulation requirements. Ms. Koozer stated that she checked the status of the RID with the Clerk and Recorder's office and the draft petition has been approved. It will then be sent back for circulation and should be completed within a year. The County's RID representative Susan Swimley clarified the RID process. Mr. Kmetz reiterated the reason the applicant went through with the subdivision first was a good faith measure for his neighbors, and that he wanted to be upfront and pay for all three lots. Attorney John Frohnmayer protested Ms. Swimley's input. He stated it appeared that this Commission was still looking to Ms. Swimley for legal advice. He represented opponents of the Green Hills Subdivision (a subsequent agenda item), and stated that they have noticed throughout those hearings that it gives the perception the Commission is looking to Green Hills attorney (Ms. Swimley), as a former County Attorney for advice. Gallatin County Attorney Marty Lambert replied that Ms. Swimley contracts with the County and does the RID work. He noted that he appeared today for this reason to give advice with regard to the RID, however he did not see any conflict created when talking about a matter of statutory time limitations and things of general interest. He did not believe this Commission was going to do anything with regard to a subsequent matter on the agenda today simply because Ms. Swimley gave general guidance with regard to timelines. Commissioner Murdock did not like the idea of placing paving requirements on a developer creating one lot, and noted that in the past it has been waived. Discussion followed regarding the process the applicant could follow should the RID not be formed. Commissioner Mitchell suggested approving the preliminary plat request and leaving the conditions as written, except for condition #17, which would be deleted, noting if the RID does not go through the applicant has other processes. Commissioner Mitchell moved to approve the Remer Subsequent Minor Subdivision preliminary plat request, with all the conditions as recommended by staff, deleting condition #17, as recommended by the Planning Board and consistent with the County Commission, finding that this subdivision meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations and the Gallatin County Plan, including the 1990 Bozeman Area Master Plan Update. Seconded by Commissioner Vincent, stating he was voting in favor of the application for one reason, separate from the RID consideration. The reason being was condition #8g, in regard to the potential for flooding and high ground water because it only effects 3 lots, as he did not believe the risk was significant enough to warrant a contrary vote. He also wanted it noted that he was not sure exactly what "accept responsibility for the location of structures and improvements" meant and in his opinion does not go far enough to protect the public health, welfare and safety. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on behalf of Planner W. Randall Johnson on the continuation of a public hearing and consideration of a request for preliminary plat approval for the Green Hills Ranch Major Subdivision. Ms. Madgic noted a memorandum from herself, dated March 26, 2002, outlining changes proposed by the applicant and Planning Staff and additional information since the hearing on March 12, 2002. The Planning Department received a number of letters and calls regarding the project, which were not distributed since public testimony was closed on March 12th. Ms. Madgic noted the following language to replace condition #36 and 37: Applicant shall comply with all fire protection conditions of approval and covenants as specified by the Rae Fire Department as provided in the Rae Fire Department "fire protection package" regarding the Green Hills Ranch Major Subdivision (or as revised and approved by the Rae Fire Department). Applicant shall obtain a letter of compliance with such conditions and covenants from the Rae Fire Department prior to final plat approval. She also summarized the following conditions and additional conditions proposed by the applicant's attorney regarding roads, septic and water: (roads) condition #10-The unimproved section of the northern secondary access road shall be improved to emergency access standard as defined in Section 8,B.2.b of the Subdivision Regulations. The applicants shall install a break away or fold down gate that is approved by the Gallatin County Sheriff's Department and the Rae Fire Department. The unimproved section of the eastern secondary access road shall be improved to a county paved standard. The applicant shall install a raised arm gate that is approved by the Gallatin County Sheriff's Department and Rae Fire Department; condition #20-The subdivider shall be responsible for the shared maintenance of the secondary access roads and gates with all affected parties. Any maintenance agreements shall be submitted to the County Road and Bridge Department; (Additional conditions): The applicant shall include a covenant requiring the Homeowners' Association annually conduct a meeting which will include the fire authority having jurisdiction, the Gallatin County Sheriff's Department, a representative from the Gallatin County Road Department and the Hyalite Foothills Homeowners' Association to discuss and consider the appropriateness of the gates across the Green Hills Ranch

secondary access roads; (septic) The applicant shall include a covenant that requires each lot to submit the Homeowners' Association proof of pumping the septic tank every five years. One hundred and eighty days (180) prior to the expiration of the five (5) year deadline, the Homeowners' Association shall send a reminder notice that the septic tank must be pumped. If the lot owner fails to provide such proof of pumping prior to the five-year deadline, the Homeowners' Association shall give the lot owner a 30-day notice to pump the tank and provide proof of the pumping. If the lot owner fails to pump the tank consistent with the notice, the Homeowners' Association shall pump the septic tank and assess the lot owner the cost of pumping; The applicant shall install a monitoring well system in the northwest and northeast portion of Green Hills Ranch. The applicant shall include in the covenants that the Homeowner's Association shall annually cause water samples to be tested for nitrate levels. If the test demonstrates a nitrate level of regulatory significance, the Homeowners' Association shall cause a second sampling and testing within 30 days of the first test. If the second test is statistically similar to the first test in showing increased nitrates to a level of regulatory significance, the Homeowners' Association shall send a notice requiring the lot owners install a more aggressive effluent treatment system such as an Orenco "Advantax System" or an equivalent upgrade. Failure of the lot owner to provide proof of such installation within 180 days of notice shall cause the Homeowners' Association to contract for the installation of a more aggressive effluent treatment system. The Homeowners' Association shall be reimbursed by the lot owner; (water) The applicant shall establish an escrow account in the name of Gallatin County and pay into the escrow account \$1,000 at the time of each lot closing. The purpose of the escrow account is to mitigate water quantity issues for Hyalite Foothills Subdivisions. After 20 homes are built in Green Hills Ranch Subdivision, and an owner of a lot in the Hyalite Foothills Subdivision is required to drill a well deeper in order to obtain water, the Hyalite Foothills lot owner may apply to the Gallatin County Planning Department for funds from the water quantity escrow account. The Hyalite Foothills lot owner must provide to the Gallatin County Planning Department evidence in the form of well logs showing the need to deepen the well on the Hyalite Foothills Subdivision. Additionally, the Hyalite Foothills lot owner shall provide the Planning Department with evidence of the existing well depth. Based upon the information provided, the Gallatin County Planning Department may authorize release of funds necessary to extend the well from the existing depth to an appropriate depth to assure adequate water supply. If the applicant cannot drill the existing well deeper and must drill a new well, the escrow shall only pay for the costs associated with the extension of the well and not with the drilling necessary to reach the original depth of the well. The balance of the escrow account shall be returned to the applicant at the end of ten (10) years after the establishment of the escrow account. Ms. Madgic had Tim Roark, Director of Environmental Health, Alan English, Local Water Quality District, Lee Provance and George Durkin, Road Department, Sheriff Cashell and Brian Crandell with the Rae Fire District review the proposed conditions and mitigation. Mr. Roark made the following suggestion with regard to septic, stating that the industry recommends that the effluent filter in the septic tank be cleaned once or twice a year. The effluent filter prevents solids from entering the drainfield and causing premature failure. The applicant was in agreement with Mr. Roark's suggestion. Ms. Madgic explained that Mr. English needed more time to review data in order to comment. Additional information received was a memo from Road and Bridge Superintendent Lee Provance, dated March 25, 2002, and information provided by the applicant regarding water prepared by Dr. Michael Nicklin. Gallatin County Attorney Marty Lambert was asked to comment whether or not it was legal to require the applicant to establish an escrow account for mitigation of water quality issues. Mr. Lambert replied that he was not aware, however if the developer agreed, it was a legitimate way to deal with water concerns. He expressed concern with the possible impact on staff by having to monitor subdivision conditions of approval in the future, noting they currently do that through improvement agreements, generally dealing with infrastructure agreements. He suggested modifying the condition so that the Commission or the Treasurer be responsible for releasing money out of the account. Ms. Madgic added that it also was suggested the Homeowners Association administer the account. Commissioner Vincent questioned why the applicant was not going to install a more aggressive effluent treatment system up front that would be compatible with the eventual hookup to a public sewer system, rather than doing so only if nitrate levels increased to a regulatory significance. Bill Dreyer, on behalf of C & H Engineering replied they have found that the upgraded sand filter systems used in other areas are not as great they had once thought, and the new Advantax System reduces nitrates down. He commented that the systems Commissioner Vincent was suggesting were great for higher density subdivisions. Commissioner Vincent pointed out several subdivisions that were not high density. Mr. Dreyer noted that non-degradation was the overall problem in those areas. Per Hjalmarsson, on behalf of C & H Engineering explained what factors DEQ would consider when requiring a proposal to go on a public system, noting that they are well above those requirements. He explained that their design work shows they can meet DEQ's requirements with a typical on-site system. Discussion followed regarding different types of systems, testing and monitoring. Commissioner Vincent commented that it would indicate foresight and good planning to do a public system or advanced system at the outset. He asked Dr. Michael Nicklin to graph a model of a ditch over flow scenario, giving a clear idea as to what would happen if the Farmer's Canal overflowed

within the perimeters of this subdivision. Dr. Nicklin replied that the land surface in the area is very steep and the depth of water flow is shallow, essentially making a sheet flow. Commissioner Vincent presented Exhibit "A", an infrared photo showing water seepage. Dr. Nicklin pointed out Middle Creek Ditch stating that there may be a misconception on where the water is actually coming from in the photo, because right below the irrigation ditch, there is an irrigation lateral. He noted that Ellis Doney flood irrigates that area, so it is not evidence necessarily that there is seepage from the ditch. Mr. Doney pointed out that the lateral from the center of canal is 35 feet on the lower bank. He also, confirmed that the ditch was a controlled ditch and could be shut off, with a head gate at the South Cottonwood canal. Commissioner Vincent questioned what was in place with regard to the safety of children when the ditch is running. Dr. Nicklin responded that the same ditch flows through Hyalite Foothills Subdivision and it was his understanding that it was a very low velocity ditch and not very deep. The applicant's representative Attorney Susan Swimley stated that fencing the ditch was discussed at the Planning Board hearing, and Wildlife Biologist Dr. Eng requested that it not be fenced as it would not be good for wildlife. She noted they would be in agreement to adding a covenant warning ditches pose danger to children and they should be supervised. Discussion took place with regards to lining portions of the ditch. Mr. Doney, as director of the South Cottonwood Middle Creek Water Association reported that the canal is approximately a mile and three quarters long, and approximately 1000 feet of it is lined. Although, Commissioner Vincent felt it would be wise to wait for input from Alan English on the water issue before making a final decision, he asked Dr. Nicklin's prospective on lining the ditch. Dr. Nicklin commented that seepage from the ditch may be enough to cause moisture appearing below the ditch in places was really inconsequential compared to the aquifer system that exists through most of the development. He noted that he measured the water level in test well #3, and that the ground water level dropped one foot, so it was clear that the test was not effected by ditch leakage. He commented that the aquifer to the north was highly permeable and he was confident that Mr. English would agree. Dr. Nicklin stated that lining the ditch would have inconsequential impacts on the recharge as it pertains to the water supply of this development and the Hyalite Subdivision. Planner Scott Doss spoke regarding the economics of the ranch plan and explained the duties of the ranch manager. He noted that should it ever be non productive it would continue to always be part of the Green Hills open space. Further discussion followed regarding trails and the voluntary contribution offered by the applicant for the school mitigation. Ms. Swimley confirmed that they had reached an agreement with the school and agreed to add the drafted language as a condition of approval. Commissioner Murdock stated that if he voted in favor of the subdivision, he would insist on adding that as a condition. He commented that he did not like second accesses and that he did like the idea of an emergency access and folding gates. They discussed the idea of making the accesses private, which was suggested by Mr. Johnson. Dr. Nicklin outlined in-depth the details as to why he did not think individual wells depths and nitrates are a problem in this area, pointing out that his conclusions differed because Mr. O'Neil used data that was unrealistic and based upon a database that states on the website, "Do not use for site assessment". Dr. Nicklin used site assessment data, which is consistent with data collected by Mr. Hackett of the United States Geological Survey. He concluded that everything he has done is highly consistent with the site-specific data, so they have a reasonable idea of the hydraulic conductivity's and they know they have a aquifer system that is highly productive. He noted the ditch only flows two months out of the year; therefore it cannot be a major source for the main aquifer system to the north and could not be leaking the kind of quantities that would have a consequential impact on that aquifer. Commissioner Mitchell commented on past experience with gated access roads, noting that she toured the site and her opinion had not change in that they needed these roads and they needed to be straight and not gated. She believed the benefit would be to Hyalite Subdivision No. 1 and 2, to get emergency services there in the shortest most direct route. She also recommended that the ditch be noted on the final plat if it was not in the conditions. She was unsure she agreed or disagreed with the escrow account for the water and suggested that they needed to sort out the administration of that account in such a way that it did not cost the taxpayers to administrate it. She noted that the rest had been answered to her satisfaction. Commissioner Vincent commented that he would feel more comfortable making a decision on the proposal if he had Mr. English's prospective relative to water, since the testimony included conflicting data. He requested the applicant's prospective and point of view regarding a letter from Road and Bridge Superintendent Lee Provance, dated March 25, 2002, using the applicant's projections in regard to Cottonwood Road. The letter referenced the applicant's statement that fifty percent of the trips per day generated by Green Hills Ranch are projected to use Cottonwood Road, and the traffic study also showed that they expect to increase the amount of traffic on Cottonwood Road by forty percent. In the letter, Mr. Provance replied that he would recognize Cottonwood Road as the primary access (especially since South 19th is functioning adequately) for this subdivision and suggested that the Commission require the developer to improve Cottonwood Road to County Standards (28' wide as indicated in Table 2., Section 7 in the Regulations), from the development to Huffine. Ms. Swimley replied that the first traffic report submitted stated that both Cottonwood Road and South 19th would be utilized at fifty percent. They did not agree with Mr. Provance changing his opinion on the primary access because nothing has changed in the facts. Further discussion took place regarding the traffic reports and the time

frame in which the Road Department was provided information on the traffic reports. Ms. Swimley outlined meetings with the Road Department prior to the first hearing. Commissioner Vincent suggested a possible continuance with regard to sorting out this information and water issues. In response to the additional time, Ms. Swimley noted that Section 3.F.2 in the Regulation states, "Review by public agencies and utilities shall not delay the Commission's consideration of a preliminary plat beyond the statutory 60 day review period", and today is the 60th day. George Durkin on behalf of the Road Department pointed out that they received the traffic report on March 11, 2002, and the first hearing was held March 12th. Commissioner Vincent requested that Mr. Provance be contacted to testify regarding his letter. Mr. Durkin quoted the Subdivision Regulations and Montana Code with regard to gates, and continuation of roads between adjacent subdivisions for the convenient movement of traffic, emergency vehicles, utilities and encroachments in the right-of-way. He believed it was logical to connect subdivisions for the convenience of travel.

The Commission recessed for lunch.

Mr. Provance clarified that the letter in question was generated at the Commission's request to comment on the proposal and it was not an attempt to change the conditions. He reported that the traffic study he received on March 11th, was done by Robert Peccia & Associates identifying Cottonwood Road as taking fifty percent of the trips per day, and increasing the amount of traffic by forty percent. He stated that none of the data contained in the information he received the afternoon of March 11th, was in the preliminary plat application for the Green Hills Subdivision. It did not mention anything about trip distribution, Cottonwood Road, the condition of Cottonwood Road, or South 19th. He stated that he did not appear or comment on it at the hearing because he did not have time to review it. He understood this was a huge and costly request to improve Cottonwood Road as indicated in his letter, and the only reason he made these comments was to let the Commission know his feelings, and he was not putting additional requirements on the applicant. He commented that he never meant for the letter to be distributed amongst the public. Ms. Madgic submitted Exhibit "B", a chronological history of the Road Impact studies and the history of meeting with the Road Department on the studies, written by Ms. Swimley. Gallatin County Attorney Marty Lambert stated in response to safety of the ditch that he did not believe the County had liability or a duty to police ditches, although the individual land owner depending on the circumstances may have liability. Mr. Doney stated that it is common practice to inspect the ditch, spray weeds and rebuild the plumes. Ms. Swimley added that condition #33, addresses ditch company liability. They discussed the use of impact fees and it was determined that the impact fees could be used for future improvements to Cottonwood Road. Ms. Madgic read the following school mitigation condition: Applicant shall pay a "voluntary school contribution" to Anderson School District #41 in the amount of \$124,250, consistent with the binding contractual agreement reached between the applicant and school. This contract shall be attached to the conditions prior to final plat approval. Commissioner Murdock asked whether or not the Commission felt the proposal was consistent with the 1990 Bozeman Area Master Plan? Commissioner Mitchell believed that it was consistent and that the proposed mitigation's will be adequate for any impacts being caused by the development. Commissioner Murdock agreed and added if there were not a 1990 Bozeman Area Master Plan, he would have a tough time with this proposal because he too shared the neighbors concerns. In going through the goals and objectives of the 1990 Master Plan which is slated for appropriate development, he believed the conditions as written would mitigate open space protection, clustered development, and view shed. Commissioner Vincent stated that it was an open question in his mind regarding water, ground water, and potential for ground water rise and flooding. He noted serious concerns about that and public safety on the roads immediately adjacent to the subdivision as well as Cottonwood Road and South 19th. Sensing Commissioner Vincent may not be comfortable voting in favor, Commissioner Murdock noted a possible scenario he did not like, and that was the difference he had with Commissioner Mitchell on secondary roads. He did not believe that continuation of those roads in this case is necessary for the convenient movement of traffic, or for emergency services or utilities. He felt emergency services could still be obtained with a break away barrier and keep adjoining traffic from going through roads that were not planned in any road plan to be arterial or collector streets. He was not going to vote in favor of this subdivision in that case. Commissioner Mitchell stated her rationale being the testimony of the Sheriff, the County Fire, the Road Department and the State Statute and Subdivision Regulations provided by staff, and their own experience with Big Sky and a number of other places where they tried a break away barrier. After having them in place the people requested that they be removed because they did not work. She stated that she would not go against the law when it comes to providing adequate public access and safety. She added that this would mitigate a secondary access for both Hyalite Subdivision #1 and 2. Commissioner Vincent stated the dilemma he was faced was that he could not vote for a gate because he believed that it would violate State Statute and the Gallatin County Subdivision Regulations, and he could not vote against the gate because he felt that it would expose people and children to an unacceptable safety risk. Commissioner Murdock moved to approve the subdivision subject to the following conditions: the

conditions presented by staff, with the removal of condition #10, which was the requirement that the unimproved two secondary access roads be approved to county standards; striking conditions #36 and 37, and replacing it with the following language: Applicant shall comply with all fire protection conditions of approval and covenants as specified by the Rae Fire Department as provided in the Rae Fire Department "fire protection package" regarding the Green Hills Ranch Major Subdivision (or as revised and approved by the Rae Fire Department). Applicant shall obtain a letter of compliance with such conditions and covenants from the Rae Fire Department prior to final plat approval; with the addition of the following conditions presented by the applicant's representative Ms. Swimley: condition #38; The unimproved section of the northern secondary access road shall be improved to emergency access standard as defined in Section 8,B.2.b of the Subdivision Regulations. The applicants shall install a break away or fold down gate that is approved by the Gallatin County Sheriff's Department and the Rae Fire Department. The unimproved section of the eastern secondary access road shall be improved to a county paved standard. The applicant shall install a raised arm gate that is approved by the Gallatin County Sheriff's Department and Rae Fire Department; #39: The subdivider shall be responsible for the shared maintenance of the secondary access roads and gates with all affected parties. Any maintenance agreements shall be submitted to the County Road and Bridge Department; #40: The applicant shall include a covenant requiring the Homeowners' Association annually conduct a meeting which will include the fire authority having jurisdiction, the Gallatin County Sheriff's Department, a representative from the Gallatin County Road Department and the Hyalite Foothills Homeowners' Association to discuss and consider the appropriateness of the gates across the Green Hills Ranch secondary access roads; #41 The applicant shall include a covenant that requires each lot to submit the Homeowners' Association proof of pumping the septic tank every five years. One hundred and eighty days (180) prior to the expiration of the five (5) year deadline, the Homeowners' Association shall send a reminder notice that the septic tank must be pumped. If the lot owner fails to provide such proof of pumping prior to the five-year deadline, the Homeowners' Association shall give the lot owner a 30-day notice to pump the tank and provide proof of the pumping. If the lot owner fails to pump the tank consistent with the notice, the Homeowners' Association shall pump the septic tank and assess the lot owner the cost of pumping; #42 The applicant shall install a monitoring well system in the northwest and northeast portion of Green Hills Ranch. The applicant shall include in the covenants that the Homeowner's Association shall annually cause water samples to be tested for nitrate levels. If the test demonstrates a nitrate level of regulatory significance, the Homeowners' Association shall cause a second sampling and testing within 30 days of the first test. If the second test is statistically similar to the first test in showing increased nitrates to a level of regulatory significance, the Homeowners' Association shall send a notice requiring the lot owners install a more aggressive effluent treatment system such as an Orenco "Advantax System" or an equivalent upgrade. Failure of the lot owner to provide proof of such installation within 180 days of notice shall cause the Homeowners' Association to contract for the installation of a more aggressive effluent treatment system. The Homeowners' Association shall be reimbursed by the lot owner; #43 The applicant shall establish an escrow account in the name of Gallatin County and pay into the escrow account \$1,000 at the time of each lot closing. The purpose of the escrow account is to mitigate water quantity issues for Hyalite Foothills Subdivisions. After 20 homes are built in Green Hills Ranch Subdivision, and an owner of a lot in the Hyalite Foothills Subdivision is required to drill a well deeper in order to obtain water, the Hyalite Foothills lot owner may apply to the Gallatin County Planning Department for funds from the water quantity escrow account. The Hyalite Foothills lot owner must provide to the Gallatin County Planning Department evidence in the form of well logs showing the need to deepen the well on the Hyalite Foothills Subdivision. Additionally, the Hyalite Foothills lot owner shall provide the Planning Department with evidence of the existing well depth. Based upon the information provided, the Gallatin County Planning Department may authorize release of funds necessary to extend the well from the existing depth to an appropriate depth to assure adequate water supply. If the applicant cannot drill the existing well deeper and must drill a new well, the escrow shall only pay for the costs associated with the extension of the well and not with the drilling necessary to reach the original depth of the well. The balance of the escrow account shall be returned to the applicant at the end of ten (10) years after the establishment of the escrow account; and #44 Applicant shall pay a "voluntary school contribution" to Anderson School District #41 in the amount of \$124,250, consistent with the binding contractual agreement reached between the applicant and school. This contract shall be attached to the conditions prior to final plat approval. He felt those conditions would adequately address and mitigate the concerns raised at the public hearing and testimony received. He added the finding that the application complies with the cluster development option, the Gallatin County/Bozeman Area Master Plan, meets the requirements of the Montana Subdivision and Platting Act, and complies with the Gallatin County Subdivision Regulations. Motion died for the lack of a second. Commissioner Vincent indicated if Commissioner Murdock reversed his statement regarding the motion he would second the motion for the sole purpose of obtaining a vote. Commissioner Murdock confirmed that he made a motion and called for a second. He did not receive a second and the motion died for the lack of a second. He re-made the motion exactly as stated and written. Seconded by Commissioner Vincent. Commissioner Mitchell stated she

would not support the motion as read for two major reasons. Those reasons being that she was not going to go against State Law by requiring a gate, and the process for the escrow account needed to be reworded so it did not cost the taxpayers, and making it simpler and more of a generalized statement. Sensing that the motion would be denied, Commissioner Murdock asked if the applicant would like to withdraw the application or grant an extension. Ms. Swimley addressed Commissioner Mitchell's concerns regarding the gate and the escrow account. She stated that she drafted the escrow account language, making the Planning Department as the decision maker to release the funds for the purpose of creating a neutral party. She suggested that it would be agreeable if the Commission would like to substitute the decision maker with a board comprised of one member of the Hyalite Foothills Homeowners Association, one member of the Green Hills Ranch Homeowners Association and a hydrologist, and this would exclude the County from being involved. Commissioner Mitchell stated that she would not like the County to be responsible for the escrow account, as it is time consuming, and a lot of responsibility. Ms. Swimley felt there was sufficient evidence that the condition was not needed at all. Commissioner Mitchell was satisfied with Ms. Swimley's idea of the homeowners administering the funds, although she too did not believe they needed the condition. Since the motion included the condition as written, Ms. Swimley suggested either changing the language or deleting it, depending on what the Commission decided. She suggested the Commission seek the County Attorney's advice with regard to the gate issue and rules that allow their discretion, and as opposed to the rules that require them to connect subdivisions. She implied that the Commission might be putting themselves in a very difficult position legally, by what they were about to do. They submitted the application with roads connecting because that is what the rules say, and the neighbors came forward and said the 8 percent increase was not acceptable. In response to those concerns, the applicant offered two different types of gates on the roads for the purpose of mitigation to eliminate that traffic. She pointed out that the record shows law enforcement and the fire department's support of that mitigation. The Road Department states that the 8 percent traffic is necessary for the efficient circulation of vehicles, therefore not supporting the gates. In response to that problem Ms. Swimley stated that she drafted an additional condition, requiring that there be an annual meeting for the purpose specifically to address Commissioner Mitchell's concern of past experience with gated accesses. This mechanism was created for them to incrementally mitigate, whether or not the gates should remain. She pointed out that these access roads are factually very different from the road that was referred to as being gated in Big Sky. That road was the main road through Meadow Village and these roads are for the adjacent subdivisions. Commissioner Mitchell noted from the last hearing that law enforcement and the fire department were trying to work with the situation, although they both agreed with the Road Department that they preferred not to have the roads gated. Ms. Swimley stated that she interpreted that they were willing to accept this as a prototype, and if it failed they would come back at the first review and make the decision to remove them. Ms. Swimley noted that Rea Fire Chief Brian Crandell would not have agreed if he thought it was not safe, and she believed the Sheriff would feel the same as long as the gate met his criteria. She reiterated that they offered to build the roads and when the concerns were raised they offered mitigation. Commissioner Vincent stated that he thought a residential development would be appropriate in this location, and given a couple of qualifiers he did not think this is the application and the time. He commended the applicant for their accommodations in regard to the impact on schools, mitigation for police protection, preservation of open space, and many of the mitigation's that were proposed. He believed they were dealing with a number of unanswered questions in regard to water quantity and quality, flooding, groundwater rise, and many other factors involved that have yet to be adequately addressed. He noted that they were against the clock and did not have the time to review both sides and get the best advice possible. He was convinced through testimony and legal work that he would not be on solid ground voting to deny this subdivision on the lack of central sewer, although he believed whether it was required or not that subdivisions of this size, in this county, at this time regardless of their location should come in with at least central sewer and probably central water. He believed if there was a community system in this location they could start accommodating the eventuality for when trunk lines and sewers are put in this area. He expressed disappointment that this application lacked the foresight in that regard. He stated that 76-3-608, requires the governing body to weigh the criteria, and he has been consistent with regard to all the criteria in the Montana Subdivision and Platting Act and he believed that public health and safety is the single most important criteria, and that public health and safety can justifiably have substantially greater weight in a decision than any other single criteria and under certain circumstances outweighs all the other criteria combined. He believed they had reached a point in this county where they can no longer in the best interest of public safety approve projects that have major direct impacts on subpar inadequate, inferior and down right unsafe infrastructure. He believed that Cottonwood Road is such a case, because it is not an asphalt road, it is a double shot chip seal, and requires a tremendous amount of county time, money and attention. The road has a poor base, and cannot carry the weight of construction traffic. He stated that this road is likely to disintegrate under that kind of pressure. Commissioner Vincent stated that he was not going to vote to condone that eventuality, because he believed Cottonwood is another Valley Center Road with accidents, injuries, death and disabilities waiting to happen years into the future. He stated

he could not vote for the gate because he really believed that it would be a violation of the Subdivision Regulations, State Law and it would set a poor precedent. He could not vote against the gate because he believed that it would be a tragic accident waiting to happen, especially to the children in that neighborhood, given existing lifestyles and for those reasons Commissioner Vincent could not support the motion. Commissioner Mitchell stated that she could relent on her opinion regarding the gates since the Road Department, and the Sheriff and fire departments would be part of a committee giving discretion of whether or not the gates would remain. She stated that she could support the motion if the escrow account condition was reworded. Discussion took place regarding the rewording of the escrow account. Upon discussion with staff and the County Attorney and based on the testimony submitted by Dr. Nicklin and others, Commissioner Murdock amended his motion, withdrawing condition #43, regarding the escrow account. He stated if the second would accept that amendment he would delete that condition. Commissioner Vincent stated that he would not second the amendment. Commissioner Murdock voted aye for the motion as originally stated. Commissioner Mitchell and Vincent voting nay. Motion failed. Commissioner Murdock moved approval with the same findings and conditions as presented in the previous motion with the exception of the removal of condition #43, regarding the escrow account. Seconded by Commissioner Mitchell adding that she originally had quite a number of concerns and through testimony, site review and more review of information from both staff and the applicant and legal assistance, she came to the conclusion the impacts can be mitigated. One of her concerns was that the homes were strung out, which she realized will maximize the agriculture and the best soils, and those homes are in close proximity to other subdivision homes. Another concern was building below the ditch, and through testimony that concern was alleviated as she learned that the ditch was only used for a couple months out of the year and can be shut off, and along with that the developer has offered to line it if necessary. Noting that the ditch is not running year around also shows that it is not recharging the aquifer, and the removal of livestock will reduce or eliminate a good share of the nitrates. She stated that this proposal has provided a wonderful opportunity for the existing neighborhoods, by maintaining agriculture and open space. She commented that the developer has bent over backwards to offer mitigations and will make a good neighbor, and she hoped the neighborhoods would work together in providing an interconnection of trails and connect the parks. Commissioner Murdock concurred, along with commenting that he was mindful of Commissioner Vincent's concerns, although Dr. Nicklin was putting his license on the line by stating that in his opinion there is not a nitrate problem or a water depth problem. He agreed the roads were a problem, and a problem with almost all subdivisions with deteriorating infrastructure, however until the Commission decides to stop development until those roads are rebuilt and repaired, now is not the time. He commented regarding the view shed and noted that this project was within the Master Planned area that is slated for residential development. Commissioner Murdock stated that since Hyalite Foothills is there, he did not believe it was fair for them to protest this development, although he shared their concerns with regards to the secondary access. He felt this proposal was better than a lot of proposals and that they did a good job mitigating concerns of access, protecting view shed, and open space for the Hyalite Foothills Subdivision. Commissioner Vincent concurred that it was better than a lot that he had seen as well, however he reiterated that there is a substantial body of unanswered questions and did not like to make decisions when there is that much ambiguity. He respected those who testified on behalf of the applicant and he hoped they are right. He strongly disagreed with removing the escrow provision, as he felt it was reasonable, fair and proposed by the developer and it was a positive mitigation. Commissioner Murdock and Mitchell voting aye. Commissioner Vincent voting nay. Motion carried.

There were no pending resolutions. There being no further business the meeting was adjourned at 3:04 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 2nd DAY OF APRIL 2002

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the Manhattan High School Activity Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

MARCH 25, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Planner Jennifer Koozer, and Commission Assistant Glenda Noyes. The Commissioners considered approval of budget authority transfer requests from the Clerk and Recorder, Auditor, and City-County Health Department. Commissioner Vincent made a motion to approve the budget authority transfer request from the Clerk and Recorder. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to approve the budget authority transfer request from the Auditor. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Commissioner Vincent made a motion to approve the budget authority transfer request from the City-County Health Department. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. The Commissioners discussed the planning board review of minor subdivisions with Ms. Koozer, and continued all other items to a later date.

MARCH 26, 2002

- The Commissioners conducted regular County business.

MARCH 27, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, and Commission Assistant Glenda Noyes. The Commissioners continued discussion on items from the March 25 office meeting agenda. Chief Deputy County Attorney Chris Gray a recommendation regarding the sale of the A&E property. Commissioner Vincent made a motion to approve said recommendation to proceed with the appropriate process for selling said property. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request for transfer of budget authority for LWQD and Youth Probation. Commissioner Vincent made a motion to approve said request from LWQD. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Vincent made a motion to approve said request from Youth Probation. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an invoice to pay the 5% retainer, in the amount of \$51,069.15. Commissioner Vincent made a motion to approve payment of the 5% retainer to Ingram-Clevenger, per the architects review and approval of appropriate progress. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

MARCH 28, 2002

- The Commissioners attended a regularly scheduled Fiscal Monthly meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, and Finance Officer Ed Blackman. The Commissioners considered approval of a letter of intent to the property owners of the Martel Low and High rise buildings, and the Planalp building, expressing the County's interest in possible purchase of said properties. The Commission unanimously agreed to authorize the chair to sign said letters.

MARCH 29, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated March 28 and 29, 2002 in the amount of \$169,012.20.
2. Consideration of Contract(s): Task Order 02-07-4-31-016-0, Immunization Program-Contract #1999-021; Task Order 02-07-4-51-104-0, STD/HIB-Contract #1999-254; and Tax Bill Print/Mail Contract Between Treasurer and NBS Data Management Group.
3. Request for Relocation of Common Boundary Lines Exemption for Montana Golf-Enterprises, LLC, - 4K Developments, LLC, located in Sections 8, 9, and 17, T3S, R4E (Gateway Foothills Road). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Mortgage Survey Exemption for Evert and Jamee Wierda and Harold and Fannie Wierda, located in the SE ¼ of Section 16, T2S, R3E (13707 Camp Creek Road, Amsterdam). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda, noting that consent agenda Item #4 was to be continued until April 9, 2002. There was no public comment. Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Commissioner Murdock announced that the Gallatin County Planning Board appointment would be continued indefinitely. There was no public comment.

George Durkin, on behalf of the Gallatin County Road and Bridge Department reported on the bid recommendation for the road improvements chip sealing projects. After reviewing the bids, Mr. Durkin recommended the low bid from JTL Group. Discussion followed with regard to the bidding process and recommendation. Gallatin County Fiscal Officer Ed Blackman advised the Commission to approve the recommendation contingent upon the contract being negotiated. Commissioner Mitchell moved to accept the Road Department's recommendation and award the bid to JTL Group, pending approval of the other departments. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Auditor Joyce Schmidt reported on receipt of the County Auditor's quarterly report of examination of books of County Officers for quarter ending December 31, 2001. Ms. Schmidt stated this quarterly report was presented to the Commission on February 8, 2002, for the period of October through December 2001. She reported nothing out of the ordinary, although there were some issues with the Sheriff's inmate trust account, of which they plan to reconcile by June 30, or she will ask the County Treasurer to close it. There was no public comment. Commissioner Mitchell moved to accept the County Auditor's report as presented. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Jennifer Blossom representing the Gallatin County Grants Department reported on the public hearing regarding the Gallatin County preliminary engineering report for bridges. Ms. Blossom explained that they applied for and received a preliminary engineering grant for bridges in Gallatin County and this was a requirement of the grant application to inform the public of the projects. Kurt Keith on behalf of Morrison-Maierle gave an outlined presentation regarding the Project Intent; TSEP Process; Selection of bridges for improvements; Deficiency of structures; Alternatives considered to correct deficiencies; Cost; and Schedule. He stated that the project intent was to replace/rehabilitate unsafe bridge structures and upgrade deteriorating bridge systems. Jim Scoles on behalf of Morrison-Maierle submitted Exhibit "A", a summary of the presentation. Mr. Scoles provided a slide show of the three top selected bridges based on inspection data. Those bridges were the Story Hill Road Bridge; Ice Pond Road Bridge; and Cameron Bridge. He pointed out some of those deficiencies were rotten and split piles; abutment pile cap deterioration; narrow roadway width; substandard guard rail; inadequate hydraulic openings; restricted for load; severe deck deterioration; and poor roadway geometry. Remedies to fix the problem: Alternative analysis considered -replacement-rehabilitating-no action-closure of structure. Selection of the preferred alternative based on -long term solution to the safety issues-cost effectiveness-long term maintenance-environmental impact. Recommendations/Costs/Financing: Story Hill Road Bridge estimated cost: \$125,000; TSEP Funding \$62,500; and County Funding \$62,500. Ice Pond Road Bridge estimated cost: \$125,000; TSEP Funding \$62,500; and County Funding \$62,500. Cameron Bridge estimated cost: \$750,000; TSEP Funding \$375,000; and County Funding \$375,000. The grant application deadline is May 3, 2002, and the funding would be available July 1, 2003, if the grant is successful. Gallatin County Bridge Foreman Dan Kuchinsky noted that there were some smaller bridges in worse shape but they would be repairing those themselves. Mr. Kuchinsky speaking in favor of these projects stated that they would have the funds by the time everything is done, along with the condition that they receive credit for their in-kind work. Further discussion took place with regards to the TSEP application process. Public comment: Jaclyn Katz. Ms. Katz a resident living on Ice Pond Road was concerned if the bridge were repaired that it would be widened and encourage increased traffic. It was confirmed by Mr. Scoles that through TSEP requirements the bridge would be widened to 24 foot County standard, however the roadway would not be widened. She also requested that the impact be as minimal as possible to the Bozeman Creek. Mr. Scoles encouraged Ms. Katz and her neighbors to submit comments if they were in support, as it would be good for the grant process.

George Durkin on behalf of the Road Department reported on the public hearing and consideration of a resolution adopting policies and procedures for the creation and administration of Cost Share Improvement Projects. Mr. Durkin submitted a memo regarding changes in the cost share agreement for dust control, making it easier to apply and interpret. He noted that Chief Civil Deputy County Attorney Chris Gray reviewed the changes. There was no public comment. Commissioner Mitchell commented that this was a policy refinement that allows for an equitable and fair way to do the cost share, rather than political. Commissioner Vincent moved to adopt Resolution #2002-039, as presented. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Gallatin County final operating budget for the Clerk and Recorder operating budget and the Election Fund for FY 2002. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-040. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Weed District FY 2002 budget to include unanticipated GYCC and 16-Mile Cooperative grant revenues in the amount of \$38,167.00. There was no public comment. Commissioner Vincent moved to adopt Resolution #2002-041. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Gallatin County final operating budget for the Communicable Disease Fund FY 2002. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-042. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Detention Administrator Anita Shaw-Tymrak reported on the public hearing and consideration of a resolution establishing the daily rate for incarceration at the Gallatin County Detention Center. Ms. Shaw-Tymrak explained the rates, noting that the rates would be retroactive back to July 1, 2001. Further discussion took place with regards to the increase in rates and what constitutes those increases. Gallatin County Fiscal Officer Ed Blackman noted a reason for the increase this year was that the average daily population was down because the Juvenile Center was open for 2000/2001, so there were 6 to 8 beds not available. There was no public comment. Commissioner Vincent moved to adopt Resolution #2002-043. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a resolution regarding zone changes in the River Rock Zoning District. Ms. Madgic stated a joint public hearing was held on March 14, 2002, before the Planning and Zoning Commission recommending approval. There was no public comment. Commissioner Mitchell moved to approve Resolution #2002-044, finding it was heard at the Planning and Zoning Commission and they recommended approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a family transfer exemption for Edith Kamps, located in the SW ¼ of Section 13, T1S, R3E. (8150 Churchill Road). Mr. O'Callaghan reported on the intended use of the parcel. Her son-in-law Gene Dykman represented Ms. Kamps. Mr. Dykman was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Commissioner Mitchell moved to approve the Kamps family transfer exemption, finding that it did not appear to be an evasion of the Subdivision Regulations. Seconded by Commissioner Vincent. Commissioner Murdock added that this is the purpose of the family transfer exemption. Mr. Dykman noted that Ms. Kamps is elderly, and at this stage it was not

their intention to sell the property, however if she passed then obviously that would happen. None voting nay. Motion carried.

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a family transfer exemption for Delbert G. and Nellie Elaine Kamerman, located in the SW ¼ of Section 30, T1S, R4E. (8560 Kimm Road, Manhattan). Mr. O'Callaghan reported on the intended use of the parcel. Nellie Kamerman was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. Commissioner Mitchell moved to approve the Kamerman family transfer exemption, finding that it appears to meet the intent of the exemption and it did not appear to be an evasion of the Subdivision Regulations. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Manhattan Mayor Eleanor Mest welcomed the Commission to Manhattan and invited them to visit their town office and meeting room.

There were no pending resolutions. There being no further business the meeting was adjourned at 10:21 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 9th DAY OF APRIL 2002

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the Fairgrounds Building #4. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

APRIL 1, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, and Commission Assistant Glenda Noyes. The Commissioners considered invoices submitted by the Historical Preservation Board for the annual fair. Commissioner Vincent made a motion to pay said invoice, noting that a letter will be sent to Ms. Satchatello-Sawyer stating that until the board is reconstituted, no additional expenditure of funds shall be made without prior permission by the Commission. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. Ms. Mitchell joined the meeting and upon further discussion, Commissioner Vincent made a motion to reconsider the first action made regarding the Historical Preservation Board until further information can be gathered. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a request from the Human Resources Department on behalf of the Strategic Planning Recruit and Retain team for approval of the proposal Employee Recognition Policy. Commissioner Mitchell made a motion to adopt said policy. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of Change Order #2 from Taylor Hanson Kane Architects in the amount of \$1,913. Commissioner Vincent made a motion to approve change order #2 in the amount of \$1,913, finding that Finance Officer Ed Blackman has recommended payment from contingency. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed and considered a letter of commitment to the Fair Board for the 10 acres the Road Department sits on should the Road Department relocate. Commissioner Mitchell made a motion to send a letter noting the Commissions' willingness to commit the 10 acres the Road Department currently sits on to the Fair Board for fairgrounds use if the Road Department moves, and consider it a way for the Fair Board to raise funds as part of their income producing plan. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

APRIL 2-5, 2002

- The Commissioners conducted regular County business.

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- Landfill Revenue for March 2002: \$74,929.97.
- Payroll for March 2002: \$1,165,858.33.
- Clerk & Recorder's Fees Collected for March 2002: \$67,774.27.
- A 101's for March 2002; 19,298.30:
- New Hire Report for March 2002: Local Water Quality District – Jon Rieck, Human Resources – Amanda Turley, Rest Home – McGinley Disanti, Tresa Loucks, Sarah Ruppert, Kelly Doughty, Clerk and Recorder – Debra Reed

Terminated Employees' Report for March 2002: Detention Center – Michael Hagenlock, ITS – Diane Steffan, Road and Bridge – Larry Otnes, 911 – Amber Toney

The following items were on the consent agenda:

1. Approval of claims were presented by the Auditor dated, April 4, 2002 in the amount of \$341,319.38.
2. Request of a Mortgage Survey Exemption for Andrew and Heidi Ebbighausen located in Section 8, T1N, R4E (Tract B-2 Roadarmel Minor Subdivision No. 169, 300 Bull Run Road). Manhattan Planner Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Relocation of Common Boundary Exemption for Thomas Langel and Kenneth Vidar located in Section 22, T2N, R3E, (Tract 130 & Tract 143 Gallatin River Ranch). Manhattan Planner Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundary Exemption for Kenneth Vidar and Thomas Langel and Thomas C. and Sharon D. Andrews located in Section 22, T2N, R3E (Tract 40 and Tract 40A Gallatin River Ranch). Manhattan Planner Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Final Plat Approval for Cameron Bridge Estates Minor Subdivision No. 3. Preliminary plat approval was granted on January 16, 2002. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.
6. Request for Relocation of Common Boundary Exemption for the Gallatin Airport Authority described as a tract of land located in the E ½ of Section 7, T1S, R5E, off Airport Road near the intersection with Frontage Road (MT205). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Mortgage Survey Exemption for Evert and Jamee Wierda and Harold and Fannie Wierda located in the SE ¼ of Section 16, T2S, R3E (13707 Camp Creek Road, Amsterdam). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. Gallatin County Planner Jennifer Madgic requested that consent agenda Items # 3 and 4 be continued until April 16, 2002 Commissioner Vincent moved to adopt the consent agenda as modified. None voting nay. Motion carried.

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Presentation by the Chief Joseph Middle School Breakfast Club Students regarding Smoke-Free Gallatin County. Teacher Ann Seitz sponsoring the 7th and 8th graders explained their focus was to promote drug free activities within the school and the city, and educational activities to educate the community about the importance of having a healthy lifestyle. The students put on a skit and presented facts on second hand smoke. Their project this year was to make a poster for a smoke free environment, and they presented each Commissioner with a poster requesting their help. The Commission commended the group for their efforts. It was noted that the Courthouse was a non-smoking building and Commissioner Murdock commented that they have been approached to consider a smoke free ordinance for the County.

Commissioner Murdock announced that Item #2, public hearing and consideration of a resolution of intention to create the Amsterdam RID would be continued until April 30, 2002. There was no public comment.

Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of a petition requesting annexation into the Gallatin Canyon Consolidated Rural Fire District. The petition was received on February 25, 2002. The property to be annexed is described as COS 994B, located Section 26, T6S, R3E. Ms. Vance reviewed and certified that the petition met the requirements of 7-33-2125 MCA, and stated that the property in question is adjacent to the fire district; that the petition contains the signatures of owners of 50% or more of the area of the privately owned lands included within the area to be annexed into the fire district; who constitute a majority of the taxpayers who are freeholders of such area; and whose names appear upon the last completed assessment roll. The Fire District Board of Trustees approved annexation of the property at their meeting on February 12, 2002. She suggested holding the public hearing on May 7, 2002, should the Commission chose to accept the petition in order to meet the publication requirements. There was no public comment. Commissioner Mitchell moved to accept the petition as submitted by the Clerk and Recorder, and requested that notice be prepared for the hearing to be held on May 7, 2002. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Grants Administrator Larry Watson briefly outlined the applications received for the Community Transportation Enhancement Program. Mr. Watson explained the purpose of this public hearing was for the Commission to review prospective proposals for funding under CTEP, and that the second hearing would be held on April 23, 2002. He noted there was no formal announcement of the allocation for this fiscal year, however he received a planning estimate of \$140,000. Combined with the existing carryover gives a funding base of \$262,372. He reminded the Commission that \$75,000 was set aside for a program proposed by Mayor Townsend of Three Forks for a pedestrian path at the Trident Headwaters State Park and it is still being held in reserve, leaving \$187,372. He recommended withholding 15 percent for contingency reserve because many times these programs take a couple of years in the planning process and during that time project prices and costs increase. He explained the project requirements and the different activities that are capable of being funded. The following proposals were received: Town of Manhattan requested money in three different alternatives to finish sidewalks: a) replace sidewalks from the early 1900's in the downtown area and construct a new sidewalk to connect a low income housing complex to the post office, parks and schools, \$84,490.84; b) complete a sidewalk on South Broadway to connect the town to a new planned unit development being annexed, \$60,107.93; and c) continue the Town Council's efforts to add a safe pedestrian access to the downtown parks, post office and schools, \$71,268.29. Total funding request is \$215,867.06. He noted that he was about to bid the existing project for Manhattan from a year ago and he would have the capability of incorporating this additional work into the contract if the Commission was to approve any of the smaller portions, making a considerable cost savings. Three Forks Mayor Gene Townsend gave an update on the Trident/Headwaters project. He explained that they have not yet spent the \$75,000 they were granted and are currently trying to secure more grant money. They are working with the Department of Transportation on the right-of-way, and with the Adopt a Bridge Program to try and adopt a 225-foot bridge, so they can cross the Madison River. He thanked the Commission for the \$75,000 set aside and requested another \$75,000. Commissioner Murdock stated his support and encouraged Mayor Townsend to submit his application.

Commissioner Murdock announced on behalf of Gallatin County Fiscal Officer Ed Blackman the consideration of a resolution authorizing the Three Forks Rural Fire District Board of Trustees to use fire impact fees for the purchase of a slide-in tank and pump unit pursuant to the District Resolution #2002-03. Three Forks Mayor Gene Townsend as the secretary/treasurer of the Three Forks RFD explained the money requested from the impact fees was going to be used to put a new tank on a 1968 Dodge truck. Commissioner Mitchell moved to approve Resolution #2002-045, finding that the Board of Trustees have acknowledged in the event the fire impact fees are found illegal or unconstitutional that the district will repay the amount of the fire protection impact fees. Seconded by Commissioner Vincent. None voting nay.

Commissioner Murdock explained that the continuation for the Velten family transfer exemption was to have the County Attorney review and give an opinion on the matter. Gallatin County Attorney Marty

Lambert stated that the history of the 1999 Velten family transfer exemption creating one tract showed it was deeded to a third party in February 2000, a very clear intent to evade subdivision review. Mr. Lambert stated one way to discern that was to look at Tract A, which was 12.84 percent of the larger parcel leaving approximately 87 percent. He stated that it was obviously set up with the idea in mind of paying off Mr. Amundson's partnership of 12.84 percent, and buying into his partnership interest that was not meant as a family transfer request. He stated that the Commission's discretion in this and other family transfer exemption matters would be best guided by an Attorney General's Opinion, 40 A.G.Op. No. 16 (1983), noting that these exemptions should be narrowly construed, and looked at with the general obligations of public health, safety and welfare. He told the Commission that they were able to take into account the recent history of this parcel and tracts created pursuant to the prior family transfer exemption in making their determination today as to whether this request involves an intent to evade subdivision review. The applicant's representative and surveyor Barney Hallin stated that the family transfer exemption was a gray area in the law, and it was not clear as to what was being judged with no set criteria as to what is meant by evasion. He suggested that the County consider setting up a set criteria to be made public and as part of the application for these exemptions. Mr. Hallin was concerned that one may believe he was a party to this evasion, and after conferring with his client it was reiterated that his client does not plan on disclosing the property and it had been for estate planning. He pointed out that it was clearly laid out as to exactly what they were planning to do with the prior exemption, and the County had every opportunity to stop creation of that tract if it was an evasion of the act. He did not believe this was a pattern and noted that his clients have been up front and not trying to evade the act in anyway. Mark Velten assured the board that they had no intention of any sort to market this property and it was strictly an allocation of the estate within the family. He stated that they would be willing to place a restriction on their property. He stated that the original conveyance that occurred was under the advice of an attorney and everything was made of public record. Commissioner Vincent asked Mr. Lambert if the Attorney General's Opinion precluded the Commission from taking Mr. Velten at his word, and if they chose to do that despite the past history and history repeated itself would he prosecute. Mr. Lambert replied that it did not preclude them from taking Mr. Velten's word. He commented that the statement by both Mr. Hallin and Mr. Velten that they were up front before about their intent was a false statement because Betty Velten indicated in her application that the intent for the parcel and the existing parcel was for recreational, residential and possible agricultural lease for grazing. Her intentions for Tract A were specifically for a family transfer to Mark Velten and said nothing about Buffalo Springs Partnership or Mr. Amundson. He confirmed if the Commission approved another exemption and they were to transfer it, there were legal ways to address it, noting that this process has been tighten and based on history and statements made under oath at the last hearing that Mr. Velten could be held accountable. Commissioner Murdock stated that after hearing the facts presented at the last hearing he made the rebuttable presumption that this could be an evasion of subdivision review, and now today after hearing the facts and information that nothing has persuaded him that it has changed factually. His problem was specifically the history of Tract A, and the fact that the applicant sold the tract, therefore he looks at this second use of the family transfer exemption to be an evasion of the exemption. He added that this does not mean the applicant cannot subdivide the parcel as they can go through subdivision review. Commissioner Mitchell concurred, and reiterated that they tightened their process with the help of the County Attorney to stop the previous abuses of this privilege. She noted that they do not collect fees for processing the family transfer exemptions and it takes time of the staff and county tax dollars. The family transfer exemption is a privilege and a right for families to pass on their property to family members, it is not intended for business transactions. Commissioner Mitchell stated that the prior exemption was a clear evasion, and originally she was going to vote against the request and after today she was not persuaded any differently. Commissioner Vincent concurred, stating that it had been expressed very well. He stated if the minor subdivision alternative did not exist, then he might have been inclined, given Mr. Lambert's explanation of protections, to take the applicant at his word and approve it, however because that alternative is there that is an adequate recourse. Commissioner Mitchell moved to deny the family transfer exemption. Seconded by Commissioner Vincent. Commissioner Mitchell added their discussion as part of findings as well as the County Attorney's finding to back their decision. Commissioner Vincent noted that was Mr. Lambert's letter dated April 4, 2002, submitted into record. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a request for a zone map amendment to the Gallatin County/Bozeman Area Zoning Regulation by Morrison-Maierle Inc., on behalf of David and Thelma Manley. The change would affect 175 acres located east of the Riverside Country Club Golf Course, north of the Old River Farm Subdivision, south of the Stonegate Subdivision, and west of McIlhatten Road. The applicant's propose to change the zoning from Agricultural-Suburban (A-S) to Residential-Suburban Country Estates (R-S). The A-S District generally requires a minimum lot size of 20 acres (with options for clustering and density bonuses, and

planned unit developments). Density in newly established R-S Districts is determined through the Planned Unit Development process. Ms. Madgic pointed out the location boundaries. She stated that the application contained general criteria, statutory criteria, additional criteria and spot zone criteria. She pointed out a comparison with the A-S District and the R-S Country Estate District, noting that the A-S has a standard development option of one unit per 20 acres, and other options if the applicant decides to do a PUD or take advantage of the clustered design, and density bonuses are given in that event. In newly established R-S districts in the Donut, there is no density assigned, and no standard development option, so if in the event this zoning is changed the applicant would have to come back through the PUD process as outlined in the Donut District to establish reasonable density. They do not know what constitutes reasonable density for this property because they have not gone through that process. Ms. Madgic explained in reviewing the zone map amendment request, the Commission must consider the following: Relationship/compliance with adopted plans; Consistency with the intent and purpose of the zoning regulations; Relationship with prevailing uses in the area; Compliance with statutory requirements of Section 76-2-203 MCA; and whether or not the requested zoning designation benefits a small area and only one or a few landowners. The staff report contained criteria for the Commission to evaluate for considering the zone change as outlined by Ms. Madgic regarding the Gallatin County Plan primary goals and the Bozeman Area Master Plan land use designations. The following four land use designations have to be taken into consideration: Rural Residential; Suburban Residential; Rural Residential Node; and Park/Open Space. She explained the adjacent land uses and pointed out the Stonegate Subdivision to the north, of which she clarified that Ordinance #1315, changed the zoning in 1990 from A-S to R-S. She noted a change on page 7 of the staff report changing the land use classification to the north from A-S to R-S. Public notice of this hearing was published in the High Country Independent Press on March 7 and 14, 2002; certified notice was mailed to adjacent property owners within 200 feet; and notice was posted. Ms. Madgic received two letters, one from Rex Easton in support and the other from the Stonegate Homeowners Association Board of Directors, accompanied by a petition with 34 signatures in opposition. The Gallatin County Planning Board held a hearing on the project on March 26, 2002, and voted 4:3 to recommend denial of the proposed Manley zone change. Seven individuals testified at the hearing, the majority expressing concern. Ms. Madgic explained in reviewing the zone map amendment request, the Governing Body shall consider the following criteria: 1) Is the requested zoning designation compatible with adopted County Plans? 2) Is the requested zoning designation consistent with the intent and purpose of the zoning regulations and the requested new zoning classification? 3) Is the requested zoning designation compatible with adjacent land uses and zoning classifications? 4) Does the requested zoning designation comply with the statutory review requirements of Section 76-2-203 MCA? 5) Does the requested zoning designation benefit a small area and only one or a few landowners, or does the requested zoning designation benefit the surrounding neighborhood, community and general public? If the Gallatin County Commission, after hearing and considering all public testimony, determines that the zone map amendment request meets the criteria of Section 55 of the Zoning Regulation, the Commission shall prepare a resolution adopting such amendment. In addition, Staff suggests the following condition: 1. The zone map amendment shall be completed upon submittal of the \$100 mapping fee to the Gallatin County Planning Department for update of the Official Zoning Map. She also noted a letter received by Chris Saunders with the City of Bozeman Planning Department, dated October 25, 2001, which mentions that the Bozeman 2020 Community Plan designates the property as Future Urban. Future Urban "envisions that development should follow one of two paths, either very low density that can be re-divided after annexation or at urban densities that can in the future be connected to City services when annexation is possible". Planner Bob Lee on behalf of Morrison-Maierle spoke regarding the density, noting that an apparent answer in the range of permitted densities on the property in the A-S would be 34, with a possible 30 percent density bonus giving an addition 10. He stated the problem with density bonus is there is no criteria established for obtaining it. He pointed out the Manley property on the 1988 FEMA map explaining that none of the property is within the designated 100-year or 500-year floodplain. He noted that approximately 50 percent of the property is designated Zone X, which is an unregulated flood surface and there is no given elevation for it. He stated that Zone X means that there is a shallow surface and flooding is possible, but they are given no regulatory guidance. Mr. Lee explained the reason why they were proposing R-S, when it would appear they could do the same thing A-S zoning. He stated that the zoning would not determine what the density would be; it will be the existing constraints on the property, and the development review process. In conclusion, they are requesting the R-S designation because the Master Plans for the area all indicate that this is an appropriate location to encourage residential development in that it is near the urbanizing core. He stated that this must be done in a fashion that is compatible with the area, the neighborhood and the Master Plan and he added that the R-S District has a better plan. Mr. Lee discussed concerns regarding density raised at the Planning Board hearing and a letter from the Stonegate residents addressing their concerns of compatibility with adjacent land uses; zoning designation benefiting only one, a few or the general public; development with a higher degree of density; ability to install a functioning sewage septic system; and negative impacts along Churn Creek. He also commented that some neighbors felt they were inadequately

notified, and pointed out the reason was because there was an open space parcel in between them and the adjacent property. He believed that most of the neighbors concerns would be dealt with more appropriately at subdivision review. Mr. Lee reviewed the applicable goals of the Gallatin County Plan and 1990 Bozeman Area Master Plan Update. In summary, he noted as part of their application that they addressed the requirements of Gallatin County and the State Laws regarding zoning change issues. He believed that R-S zoning for this property is better suited to the future development of property and encourages implementation of the existing Master Plan for the area by providing more than adequate protection for adjacent land owners and a review process that is thorough and more rigorous than A-S. Commissioner Mitchell commented on a letter that Mr. Lee referred to from Gallatin County Planner John Shepard, dated October 30, 2001, stating that an application to change the zoning to R-S would not require a Master Plan amendment to change the 1990 Bozeman Area Master Plan, and clarified they had no indication of what information was provided to Mr. Shepard by Morrison-Maierle for his response. Mr. Lee acknowledged there was nothing in the application, and that it was a series of conversations with the Planning Department trying to get the answer to what was an appropriate zoning designation for this property and would R-S require a Master Plan amendment. Engineer James Nicholson on behalf of Morrison-Maierle submitted Exhibit "A", a wetlands overlay on the FEMA flood insurance rate map of the Manley property. Mr. Nicholson spoke in response to discussions at the Planning Board hearing and correspondence from neighboring properties, regarding floodplains, wetlands, high ground water and surface water on this property, although it was his opinion that these issues would be more appropriately discussed during the subdivision review process and development. Representing the applicant, Rex Easton a long time friend stated that the Manley's were unable to attend. He explained that they had no definite plans as to what they will do, although they want to do a quality development to maximize the use of the land for the area and as they go through the process, they will work with the neighbors. He noted that they are looking at less than 100 units because of the restrictions of the land and to be compatible with the surrounding area. Mr. Easton encouraged the Commission to look at the appropriateness of an R-S Zoning District in this urbanized area. Public comment: Nancy McLees, (submitted "B", "C", and "D", a series of photos); Renee Thorp, (submitting Exhibit "E", a letter from John K. Thorp; Lynn Kaeding; Beth Kaeding; Berry Jackson; Wayne Neil; Dave Gantt; John Beyer; Ben Basham; Noel Meisner; Dale Mailey; Debra Wheat; Attorney Mike Lilly (representing Old River residents); and Frank Carter. Mary Jo O'Donnell was signed up and left before speaking. The following concerns were expressed: flooding; impacts on wildlife; traffic; higher density; property values; consistency with surrounding development; and preservation of ag land. Mr. Nicholson reiterated that the drainage of the property and issues related to building foundations, and increased runoff should be dealt with through the developing process. He noted that building elevations and traffic issues would need to be mitigated in some form for any development proposal brought forth on this property. He commented that access on McIlhattan and Manley roads would be very feasible alternatives and possibly through the Stonegate Subdivision. Mr. Lee submitted Exhibit "F", a map of the Stonegate Subdivision and pointed out the linear park adjacent to the Manley property. He stated that overall they were asking for an opportunity to do the same thing as the Stonegate Subdivision, as it appeared that it was developed in compliance with the R-S1 Zoning at that time and that is essentially what they are asking to do. In regards to the Old River Farm, Mr. Lee noted that the PUD process assures compatibility and the Master Plan calls for it to be residential. He concluded that A-S Zoning should not have been construed as a permanent fixture on the real-estate because the Master Plan designations suggest that residential development of the property was the more likely outcome than to be held permanently in A-S zoning. Mr. Nicholson confirmed that the property was not in the wastewater service area boundary or the water service boundary. Commissioner Murdock stated that he had come to the preliminary conclusion that the A-S zoning as written may not be the best zoning designation for this property, and after hearing the testimony he did not think R-S was the best zoning either. He did not believe there was one in existence at this point. Commissioner Vincent moved that the application for the zone amendment be denied. Seconded by Commissioner Mitchell. Commissioner Vincent added his only contrary argument to his motion was that the Stonegate Subdivision's average lot size was about an acre, which was history and he personally felt that at least a portion of the Stonegate development should have never have been allowed to be developed. He pointed out that there was A-S zoning on three sides of the Manley property and in affect, although he did not think it had that designation, the buffer of the golf course especially offers the same kind of feel and protection. He was concerned that the highest possible densities, or even densities significantly less than that would be allowed and be a problem directly related to traffic flow and questions in regard to easements. He believed that in the immediate future the primary access would be through Stonegate and that there would be serious traffic concerns. He added that he agreed with the Planning Board recommendation in that changing the zoning would be contrary to the intent of A-S zoning, in preserving agricultural land, open space and environmental concerns that involve open space. He felt that the maximum amount of this property that would be suitable for development would be about half of it (87.5 acres). It was his understanding that it would probably accommodate about 44 units that would be about two acres of development site and be relatively compatible with the adjacent developments. He believed that this

would constitute spot zoning and it would represent special legislation primarily by benefiting one and only one party. He explained that he had come to believe that the FEMA maps in regard to both floodplain and other considerations are not worth the paper they are written on, as they do not reflect real life on the ground, such as the potential for flooding and other water damage. He noted that the maps were not put together with any on site review and they were all done out of Washington DC. Commissioner Mitchell complemented those who testified for their rationale. Initially she believed that this looked like a place to develop however, after hearing the testimony it gave her more concern that needed to be addressed. She believed that the A-S zoning is appropriate, given the impacts that would occur due to the maximum densities possible on this development. Commissioner Murdock concurred, and stated that he believed they should do infill in close proximity to the urban areas. He stated that he encourages and promotes infill so they do not have leapfrog and sprawl throughout the county, although they have to be looked at on an individual basis. He was persuaded with the environmental sensitivities that this area has, noting that basically it is a riparian zone. He encouraged the developer go to the Planning Board and revisit the land use classifications in the Donut area. He supported the motion because of the density in its worst-case scenario and based on the high sensitivity of this area. None voting nay. Motion carried.

The Commission recessed until 2:15 P.M. for lunch and another meeting.

Commissioner Murdock announced that Item #8, the continuation of a public hearing and consideration of request for preliminary plat approval for the Meadowbrook Estates Major Subdivision was continued until April 16, 2002.

Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a request for preliminary plat approval by R. Dale Beland, on behalf of Carl and Sarah Lehrkind and Gene and Marlys Cook for the Middle Creek Village Phase 1A Minor Subdivision, described as a tract of land located in the SE ¼ of Section 18, the NE ¼ of Section 19, and the NW ¼ of Section 20, T2S, R5E, PMM, Gallatin County, Montana, and generally located south of Elk Lane and southwest of Lynx Road; southeast of the Cobb Hill Road and Huffine Lane intersection, approximately one and a half miles southeast of the Four Corners intersection. The property is not located in a County zoning district. The request is for a five-lot minor subdivision on approximately 83 acres and four of the proposed lots consist of approximately five acres, and the fifth lot consists of approximately 60 acres. The Gallatin County Planning Board met March 26, 2002, and voted 6:0 with one abstention to recommend approval of the Middle Creek Village Minor Subdivision. The Board issued a finding that the applicant provide further information regarding the floodplain analysis for consideration by the Commission. Courtesy notice was mailed to adjacent property owners, and there were no replies. One person spoke at the Planning Board hearing, regarding the maintenance of Elk Lane. Ms. Madgic briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. She noted that the Commission must review the project for conformance with the Gallatin County Plan and outlined the goals and policies, which may be applicable to this project. The Commission has one determination to make with this application: A determination as to whether to recommend approval of the proposed subdivision. The basis for the Board's recommendation shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations and the Gallatin County Plan. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant shall obtain approval from the Department of Environmental Quality prior to final plat approval. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicant shall obtain the Gallatin County Health Officer's approval. 3. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 4. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 5. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor. 6. The applicant shall record the following

covenants with the final plat: a) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* b) *All new dwellings or home business occupancies built prior to the provision of an adequate water supply for fire fighting purposes shall be constructed with an automatic fire sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled, with 48-hour notice, during construction and after completion.* c) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d) *Individual lot access from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.* e) *The property owners' association shall be responsible for maintenance of interior subdivision roads.* f) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* g) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.*

7. A property owners' association shall be formed for the maintenance of all interior roads. A copy of the property owners' by-laws shall be submitted to the County Road Department prior to final plat approval.

8. Applicant shall submit covenants to the Planning Department for review and approval prior to final plat approval.

9. The 100-year-old floodplain for Hyalite Creek shall be delineated on the final plat as it affects the Middle Creek Village Minor Subdivision. The 100-year-old floodplain shall be a designated no-build zone to be appropriately marked on the final plat.

10. All road names for interior roads pertaining shall be approved by the County GIS Department.

11. Applicant shall obtain encroachment permits from the County GIS Office for any access points coming off of County-maintained roads. Additionally, all internal lots shall be limited to one **driveway access. Each access** shall be at least 75-feet from the nearest intersecting County road.

12. A pre-construction meeting shall be set with the County Road Department prior to the start of the construction.

13. All roadwork will need to be built to Montana Public Works Standard Specifications (Fourth Edition, 1996), inspected and certified by a licensed engineer. Such inspection and certification must be provided to the County Road Department in writing.

14. A detailed signage and drainage plan shall be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP signs at all intersections with County-maintained roads. STOP signs and other regulatory or warning may also be needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition.

15. A "no access" strip is required along all lot boundaries that border County-maintained roads.

16. STOP sign(s) pertaining shall be required at all intersections with County-maintained roads.

17. Interior roads shall be built to County-gravel standards, and have 60-foot right-of-ways, dedicated to the public.

18. A cul-de-sac built to County standards and acceptable to the local fire district shall be constructed at the south end of the main interior road and the road accessing proposed Tract 3.

19. Applicant shall sod or re-seed all areas of public right-of-way disturbed during construction activities.

20. Elk Lane shall be improved to Gallatin County gravel standards from the intersection of Beatty Road to the easternmost property line. Applicant and landowners using Elk Lane shall work with the Gallatin County Road Department to enter into a joint agreement for the continued maintenance and snow removal of Elk Lane.

21. Applicant shall make payment(s) of road impact fees in accordance with the Subdivision Regulations.

22. Applicant shall make payment(s) of fire protection impact fees in accordance with the Subdivision Regulations.

23. Applicant shall comply with all fire protection conditions of approval and covenants as specified by the Rae Fire Department as provided in the Rae Fire Department letter regarding the Middle Creek Village Minor Subdivision (or as revised and approved by the Rae Fire Department). Applicant shall obtain a letter of compliance with such conditions and covenants from the Rae Fire Department prior to final plat approval.

24. Documents establishing the property owners' association, public road right-of-ways, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat(s) approval. The Attorney's Office shall review and approve the documents establishing the property owners' association, road right-of-ways and certificate prior to final plat approval(s).

25. Applicant shall

have three (3) years to complete the above conditions and apply for final plat approval(s). Ms. Madgic noted condition #9, concerns the floodplain on Hyalite Creek and was a result of a transaction with the applicant and the floodplain consultant. She pointed out on the plat where the 100-year floodplain was delineated and explained there was just a small portion of the delineated floodplain that falls within the subdivision. Because the floodplain analysis was in need of some minor revisions, Ms. Madgic suggested adding the following language to the beginning of condition #9: "Applicant shall submit a revised flood hazard evaluation as approved by the Gallatin County Planning Department." The applicant's representative R. Dale Beland stated that the staff report and the conditions, including the proposed modification to condition #9, were reviewed and the applicant was willing to accept the conditions as amended. Public comment: Bill Svejkovsky spoke favorably regarding the subdivision and was looking forward to having assistance with maintaining Elk Lane. Developer Gene Cook reported that they had met with the neighbors regarding the proposal and noted that they were in agreement with the project. Commissioner Vincent moved to approve the Middle Creek Village Minor Subdivision application, noting the conditions and the change as submitted by staff on condition #9. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for preliminary plat approval by C & H Engineering on behalf of the Florence J. Carter Life Estate et al. for the Carter Minor Subdivision, located in the SE ¼, NE ¼, Section 20, T1S, R5E, P.M.M., Gallatin County, Montana. The request is for a one lot minor subdivision on 1 acre with the remainder property being over 160 acres. The subdivision is located east of Belgrade on Harper Puckett Road. The Belgrade City-County Planning Board voted unanimously at their March 11, 2002, public hearing to recommend preliminary plat approval subject to the conditions in the staff report. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission has one determination to make with this application: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the County Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer must obtain an encroachment permits from the Gallatin County Road

Department for a driveway off Harper Puckett Road. 11. The developer shall provide one of the following standards to ensure a reasonable level of fire protection and life-safety to the public and firefighters. The following requirements must meet the specifications of Gallatin County Subdivision Regulations Section 6-E-5 and be reviewed and approved by the Belgrade Rural Fire District. The subdivider shall obtain written verification from the Belgrade Rural Fire District that one of the following requirements has been met. a. A single 10,000 gallon water supply for each home and associated structure meeting the requirements of Section 6-E-5(a). b. A single 20,000 gallon water supply meeting the requirements of Section 6-E-5(b). c. A rural fill site meeting the requirements of Section 6-E-5(c). d. R-3 occupancies as defined by the Uniform Fire Code may be protected by automatic fire sprinkler systems meeting the requirements of NFPA 13D. If the sprinkler options is used the covenants must include the following provisions. 1. Automatic fire sprinkler systems shall be installed in all structures, which are used for living and home business which people normally occupy. The fire sprinkler system must meet the requirements of NFPA 13D. 2. A stamped set of engineered sprinkler system plans and covenants requiring the installation of sprinklers shall be submitted to the Belgrade Rural Fire District for review and be approved prior to construction, and the sprinkler system must be inspected by the Belgrade Rural Fire Department during construction and at completion as required by the Belgrade Fire Chief. e. A pressurized fire hydrant system meeting the requirements of Section 6-E-5(e). 12. In lieu of Condition No. 11, if the developer chooses to utilize the Valley Grove Subdivision fill-site for a fire protection water supply, they shall be responsible for paying a proportionate reimbursement of the cost of the fill-site as per the methodology in the Gallatin County Subdivision Regulations. 13. 30-feet of Harper Puckett Road east of the centerline shall be dedicated to the public on the final plat along the entire length of the subdivision. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp suggesting changing condition #13, to read as follows: 45 feet of Harper Puckett Road west of the centerline shall be dedicated to the public on the final plat along the entire length of the subdivision. He stated that the applicant was in agreement to the modification. Mark Chandler, on behalf of C & H Engineering questioned if the 45 feet of Harper Puckett Road was appropriate in this case, as that would be the only spot on that road with a 45-foot dedication. Commissioner Murdock noted that the draft Transportation Plan shows Harper Puckett as a potential arterial and possibly an interchange. Mr. Chandler stated that the applicant was in agreement with the conditions. There was no public comment. Commissioner Vincent moved to approve the Carter Minor Subdivision application, along with the conditions and modification to condition #13. Seconded by Commissioner Mitchell, finding that it meets the subdivision requirements of Gallatin County, the Montana Statutes and that the Belgrade County Planning Board recommended approval. None voting nay. Motion carried.

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Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for preliminary plat approval by Rocky Mountain Engineers on behalf of the Derold and Patricia Omdahl for the Omdahl Minor Subdivision, located east of Belgrade on Airport Road, west of the Springvale Subdivision. The property is described as the W $\frac{1}{2}$, W $\frac{1}{2}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$, of Section 4, T1S, R5E, P.M.M., Gallatin County, Montana. The request is for a four lot minor subdivision on 10 acres. The Belgrade City-County Planning Board voted unanimously at their March 11, 2002, public hearing to recommend preliminary plat approval. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission has one determination to make with this application: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the County Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants with the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of

the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. A Homeowner's Association shall be established. e. The Homeowners Association shall be responsible for participating with the owners of the adjacent Andres Minor Subdivision for the maintenance of the access road. f. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.

6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval.

7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations.

8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.

9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.

10. The developer must obtain an encroachment permits from the Gallatin County Road Department for the proposed intersection with Airport Road.

11. The developer shall provide one of the following standards to ensure a reasonable level of fire protection and life-safety to the public and firefighters. The following requirements must meet the specifications of the Gallatin County Subdivision Regulations Section 6-E-5 and be reviewed and approved by the Belgrade Rural Fire District. The subdivider shall obtain written verification from the Belgrade Rural Fire District that one of the following requirements has been met.

a. A single 10,000-gallon water supply for each home and associated structure meeting the requirements of Section 6-E-5 (a).

b. A single 20,000 gallon water supply meeting the requirements of Section 6-E-5(b).

c. A rural fill site meeting the requirements of Section 6-E-5(c).

d. R-3 occupancies as defined by the Uniform Fire Code may be protected by automatic fire sprinkler systems meeting the requirements of NFPA 13D. If the sprinkler options is used the covenants must include the following provisions.

1. Automatic fire sprinkler systems shall be installed in all structures, which are used for living and home business which people normally occupy. The fire sprinkler system must meet the requirements of NFPA 13D.

2. A stamped set of engineered sprinkler system plans and covenants requiring the installation of sprinklers shall be submitted to the Belgrade Rural Fire District for review and be approved prior to construction, and the sprinkler system must be inspected by the Belgrade Rural Fire Department during construction and at completion as required by the Belgrade Fire Chief.

e. A pressurized fire hydrant system meeting the requirements of Section 6-E-5(e).

12. The access road extension shall be a sixty foot right-of-way dedicated to the public, or be a public easement in accordance with Section 7-B of the Gallatin County Subdivision Regulations and shall be constructed to Gallatin County standards with cul-de-sac at its north end.

13. 45-feet of Airport Road north of the centerline shall be dedicated to the public on the final plat along the entire length of the subdivision (*County Road Department is requesting 45 feet on arterial/collector roads such as Airport Road*).

14. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval.

15. The gas line easement on the preliminary plat shall be shown on the final plat. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval.

Mr. Karp noted that he made a change to condition #13, after the Planning Board hearing, changing 30 feet to 45 feet. Ray Center, on behalf of Rocky Mountain Engineering stated that the applicant's were in agreement with the conditions. There was no public comment. Commissioner Mitchell moved to approve the Omdahl Minor Subdivision, subject to the conditions recommended by staff, finding that it meets the Montana State Statute, the Gallatin County Master Plan, the Gallatin County Subdivision Regulations and that the Belgrade City-County Planning Board recommended approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.

There were no pending resolutions. There being no further business the meeting was adjourned at 2:54 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

The meeting was called to order by Chairman Bill Murdock at 9:10 A.M., at the Willson School Board Room. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Jennifer Smith Mitchell was attending a conference in Colorado as a representative for the County.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

APRIL 8, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Commission Secretary Rose Blaskovich and Commission Assistant Glenda Noyes. Item number three on the agenda was continued until April 10. The Commission unanimously agreed to authorize Grants Administrator Larry Watson, Finance Officer Ed Blackman, and Commissioner Vincent to pursue Landfill RFP matters.

The Commission considered approval of two budget transfer requests from the Coroner. Commissioner Vincent made a motion to approve both requests. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered two asset disposal requests from the Road and Bridge Department. Commissioner Vincent made a motion to approve the trade-in, request for the Road and Bridge Department. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Vincent made a motion to approve the asset disposal request for the Road and Bridge Department. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a request from Treasurer Anna Rosenberry to purchase office furniture for her new space following Phase III, IV remodel. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered an invoice from Taylor Hanson Kane Architects for 6% of the administration costs for the Phase III, IV remodel, in the amount of \$1,366.50. Commissioner Vincent made a motion to approve payment of said invoice. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed the re-creation of the Historical Preservation Board, and considered the applications that had been thus received for appointment to said board. Commissioner Vincent made a motion to re-advertise for the Historical Preservation Board, appoint when adequate representation was available, and ask the board to review and revise the resolution as soon as they are appointed. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

APRIL 9, 2002

- The Commissioners conducted regular County business.

APRIL 10, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Treasurer Anna Rosenberry, Finance Officer Ed Blackman, ITS Director Ed Kawa, Chief Deputy County Attorney Chris Gray, and Commission Assistant Glenda Noyes. The Commissioners considered approval of a contract with CSA for programming support. Ms. Rosenberry requested that the Commission consider entering into the contract and allowing the Treasurer's office additional staff to take over the tax billing process. This would require a payroll contingency that would remove the funding of a position from the ITS department and place it in the Treasurer's Office. The contract with CSA would require one-third of the payment this fiscal year and two-thirds payment next year, with a full 100% funded as a safety net though it may not all be necessary. There will no longer be a programmer in the ITS department responsible for this task, but four people in the Treasurer's office will learn the system for the necessary redundancy. CSA will provide support, and they have concurred that they have staff other than Don Carlson that can provide the assistance. Mr. Blackman is in agreement from a financial standpoint, and Mr. Kawa is in agreement with the transfer of funds from his department for the funding of an additional Treasurer staff person. Commissioner Vincent made a motion to accept the recommendation from the Treasurer's Office, given the previously noted information. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. On a second matter related to this, Mr. Gray commented on state statute as it relates to the contracting with CSA and Don Carlson, former employee. According to MCA 2-2-201, the only way that the County can contract with an employer that has hired a former employee is if the

duration is for a limited time and no other contractor can perform the services. The Treasurer has assured the Commission that this is the case, and has delineated the limited scope of work and time frame in which CSA will be needed. Commissioner Vincent made a motion to approve the prepaid agreement contract with CSA, as delineated in the memo from Treasurer Anna Rosenberry dated April 10, 2002. Commissioner Murdock seconded the motion. In discussion, it was noted that there is a six-month blackout period, according to the time frames in the above referenced memo. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of Invoice #237, submitted by Kathy Gallagher in the amount of \$934.40 for hydrology work at Logan Landfill. Commissioner Vincent made a motion to approve said invoice. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget appropriations transfer request from District Court 2 for \$1,760. Commissioner Vincent made a motion to approve said transfer. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of three asset disposal requests from the Road Department for a computer, monitor and printer. Commissioner Vincent made a motion to approve the disposal of all three items. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

APRIL 11, 2002

- The Commissioners conducted regular County business.

APRIL 12, 2002

- The Commissioners attended a special meeting with Bonnie Satchetello-Sawyer, Historic Preservation Board, for the purpose of discussion and approval of invoices for the Historic Preservation Antique Fair. In attendance were Commissioners Murdock and Vincent, Ms. Satchetello-Sawyer, and Commission Assistant Glenda Noyes. Commissioner Vincent made a motion to pay the invoices associated with the Historic Preservation Antique Fair, finding that the fair brought in unanticipated revenue, over and above the expenses of the fair organizer and other related expenses. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated April 11, 2002 in the amount of \$171,899.87.
2. Consideration of Contract(s): Amendment #1 to Engineering Contract #2001-117 Between Morrison-Maierle, Inc. and Gallatin County for Three Forks Pogreba Airport Project; and Grant Reimbursement and Maintenance Agreement for the Gallatin Gateway Pedestrian Trail (Gallatin County, Gallatin Gateway School Dist., and Gallatin Gateway Youth Group, Inc.)
3. Request for Release of the Letter of Credit for the Ramshorn View Estates Subdivision, Phase 3A & 3C, Improvements Agreement. The original letter of credit of June 28, 2001, was issued to Gallatin County in the amount of \$535,366.28. Gallatin County Interim Planning Director W. Randall Johnson recommends that the Commission approve the requested release of the letter of credit.
4. Request for Final Plat Approval for Belgrade Gardens Subdivision. Preliminary plat approval was granted on April 10, 2001. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.
5. Request for Relocation of Common Boundary Exemption for Thomas Langel and Kenneth Vidar located in Section 22, T2N, R3E, (Tract 130 & Tract 143 Gallatin River Ranch). Manhattan Planner Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Relocation of Common Boundary Exemption for Kenneth Vidar and Thomas Langel and Thomas C. and Sharon D. Andrews located in Section 22, T2N, R3E (Tract 40 and Tract 40A Gallatin River Ranch). Manhattan Planner Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock announced that regular agenda Item #7, continuation of a public hearing and consideration of a request for preliminary plat approval for the Meadowbrook Estates Major Subdivision was going to be continued again. He added that public comment was closed, however he noted that he would allow public comment.

Commissioner Vincent read the consent agenda, noting a request from the Planning Department to continue Items #5 and 6, as the County Attorney is reviewing them. There was no public comment. Commissioner Vincent moved adoption of the consent agenda, with the exception of Items #5 and 6. Seconded by Commissioner Murdock. None voting nay. Motion carried.

George Durkin on behalf of the Road Department reported on the continuation of bid recommendation for the Road Improvements Chip Sealing Projects. Mr. Durkin recommended that the Commission accept and approve the low bid from JTL Group. He noted that Chief Civil Deputy County Attorney Chris Gray would review after the Commission's approval. There was no public comment. Commissioner Vincent moved to accept and approve the JTL Group contract, on the advice of the Road Department, subject to review by Mr. Gray. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Commissioner Murdock on behalf of Gallatin County Fiscal Officer Ed Blackman announced consideration of a resolution setting the public hearing date for consideration of approving tax benefits for Montana Furniture Industries, Pursuant to Statute 15-24-1402 MCA. Greg Metzger on behalf of Montana Furniture Industries assured the Commission that they continue and plan to grow and the funds will be used in that manner. They are adding jobs as the market grows. Commissioner Vincent moved to adopt Resolution #2002-46, and setting the public hearing for April 30, 2002. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Commissioner Murdock announced consideration of a resolution of intent to amend the Community Corrections FY 2002 budget to include unanticipated revenues for implementing Community Services. Community Corrections Coordinator Teresa Flanagan submitted Exhibit "A", Gallatin County Community Service Program and gave a brief overview. There was no public comment. Commissioner Vincent moved to approve Resolution of Intention #2002-047. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a resolution creating RID #380, Looking Glass. Ms. Vance stated that notice for this public hearing was published in the High Country Independent Press on March 28 and April 4, 2002, and mailed to all record owners and contract purchasers on March 27, 2002. The protest period starts on the first publication and goes for the first 15 days. Ms. Vance stated that there was one protest letter received, protesting the funding methodology used in the proposed RID. It was stated by the protester that the resolution does not address a fair and equitable distribution of cost. The letter was signed by only one of two land owners of that lot so it does not qualify as a formal protest according to State Law 7-12-2109, which states "Such protest must be in writing, identify the property in the district owned by the protester, and be signed by all owners of the property". It was not a sufficient protest according to State Statute, therefore there were no official protests received protesting the creation of the district that complied. There was no public comment. Commissioner Vincent moved to approve Resolution RID-02-380-B, and accepting the Clerk and Recorder's report. Seconded by Commissioner Murdock. The County's RID Attorney Susan Swimley explained the RID process that will follow the passage of this resolution. None voting nay. Motion carried.

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a family transfer exemption for Harold Wierda, located in the NW ¼ of the SW ¼ of Section 22, T2S, R3E. (20777 Norris Road, Manhattan). Mr. O'Callaghan explained the history of the parcel, noting that this survey was originally brought before the Commission on October 10, 1995. At that time it was a family transfer exemption from Harold and Fannie Wierda to their son, Wesley Wierda. However, there were some complications, associated with road right-of-ways and the deeded land that prevented the original survey from ever being recorded. These issues have since been resolved. Harold Wierda was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. The applicant's representative Mark Chandler of C and H Engineering commented that he was available to answer questions. There was no public comment. Commissioner Vincent moved to grant the Wierda family transfer exemption request,

finding that it meets the criteria of the Montana Subdivisions and Platting Act. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Interim Planning Director W. Randall Johnson reported on the public hearing and consideration of a request for a reduction of road impact fees for the Spanish Peaks Estate Phase 2A Major Subdivision. Mr. Johnson noted that previous to this hearing the Gallatin County Road and Bridge Department supported a per lot road impact fee for the Big Sky area, based on studies by Peccia and Associates. Since that time they have been applying \$73 per lot for road impacts fees to be submitted for final plats for subdivisions in Big Sky. He noted that it was reviewed by the Road and Bridge Department and he had a concurrence from Gallatin County Road and Bridge Superintendent Lee Provance on the request. There was no public comment. Commissioner Vincent moved to grant the request for the reduction of impact fees for the Spanish Peaks Estate Phase 2A Major Subdivision, sighting the staff report and recommendation for approval from the Road and Bridge Department. Seconded by Commissioner Murdock, adding the total road impact fee was \$949, or \$73 per lot. None voting nay. Motion carried.

Commissioner Murdock asked Interim Planning Director W. Randall Johnson to explain the requested continuance of the Meadowbrook Estates Major Subdivision. Mr. Johnson noted from a previous hearing that the Commission requested some additional findings, information and possible conditions. Staff had to rely on information supplied by the applicant to address those concerns and that information did not arrive until the beginning of last week. The Planner did not have adequate time to prepare a report in a timely manner. That was brought to the Commission's attention and it was agreed upon to continue this until next week for the Commission to review the information. Mr. Johnson had a conversation with the applicant's engineer/surveyor, and they agreed to another continuation. Commissioner Murdock stated that this was not a public hearing, however he stated if anyone had new information to provide for the Commission's consideration in this decision, he would allow them to speak. The applicant's attorney Susan Swimley commented to the Commission that it would be a huge procedural error for them to take comment from anyone on this topic when the developer and their representative is not available and they were told it would not be heard. Commissioner Vincent suggested they adjourn the meeting. Commissioner Murdock stated that after hearing comments by the applicant's legal counsel he would not allow further comment.

There were no pending resolutions. There being no further business the meeting was adjourned at 9:43 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING **TUESDAY THE 23rd DAY OF APRIL 2002**

The meeting was called to order by Chairman Bill Murdock at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Glenda Noyes.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

APRIL 15, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, DES Coordinator Jason Shrauger, ITS Director Ed Kawa, Facilities Director Bob Isdahl, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Noyes. The Commissioners discussed the purchase of Duress security and fire alarms for the Phase III, IV construction. The group recommended that 60 systems be purchased. Mr. Blackman noted that there is money available and supports the recommendation. Commissioner Murdock made a motion to approve 60 Duress alarms finding that the money is available and the construction committee has recommended the purchase. Commissioner Vincent seconded the motion. In discussion, Mr. Isdahl noted that this is consistent

with the systems at the Law and Justice Center and in the Health Department. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a request from DES, Health Department, and ITS for permission to remodel and use a small room on the fourth floor of the courthouse for storage of the Noah Weather radio, a satellite dish for Health, and phone equipment for ITS. The room will have to be expanded to accommodate the radio. Mr. Shrauger has the funds to help pay for most of the project. Commissioner Vincent made a motion to approve the remodel and use of the room for the above referenced purposes. Commissioner Murdock seconded the motion. In discussion it was noted that as much as possible the work will be done in house and any funding needs will come from Facilities funds. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an amendment to contract #2002-100 between TSEP and Gallatin County for a time extension only. Commissioner Vincent made a motion to approve said contract, extending the time to June 30, 2002. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request for payment in lieu of vacation for Dave Fowler. Commissioner Murdock made a motion to approve said request, noting that this is consistent with the Personnel Policy. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer for the Road and Bridge Department. Commissioner Vincent made a motion to approve said transfer in the amount of \$3,000. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an expenditure of \$4,000 for an RID Manual Update. Commissioner Vincent made a motion to approve said expenditure. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

APRIL 16, 2002

- The Commissioners conducted regular County business.

APRIL 17, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Noyes. The Commissioners considered approval of claims numbered 8009658-8009663, totaling \$24,252.45. Commissioner Vincent made a motion to approve said claims. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioners considered a request for privilege to charge tipping fees at the Gallatin County landfill @ Logan. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

APRIL 18-19, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated April 18, 2002 in the amount of \$186,942.93.
2. Application for Cancellation of Taxes in the Amount of \$3,505.55.
3. Consideration of Contract(s): USDA, Gallatin National Forest, 2002 Financial and Operating **Plan**; USFS, Gallatin National Forest, Modification #02 Financial and Operating **Plan**; and Amendment #1, WIC Program, Task Order 02-07-5-21-019-0, to Contract #1999-21.

Commissioner Murdock called the meeting to order at 9:02 a.m. Item number 5 is continued. Commissioner Mitchell read the consent agenda, including claims numbered 8009667-8009873 in the amount of \$186,942.93, and noting that all contracts listed are contingent upon the approval of Fiscal Officer Ed Blackman. **Commissioner Mitchell moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Grants Administrator Larry Watson reported on the consideration of a resolution of intent and letter of commitment for a Treasure State Endowment Program (TSEP) Application for bridges. Engineering firm Morrison Maierle did a preliminary engineering report on the state of the bridges in Gallatin

County. Three bridges have been identified as in need of replacement or repair; Ice Pond Road, Story Hill Road, and Cameron Bridge Road. The report has since become an application to the Treasure State Endowment Program for funding to actually repair and replace the identified bridges. A resolution of intent to apply for the funding to the Department of Commerce and a letter of commitment that indicates the county's commitment to provide matching funds necessary to submit the application must be signed and sent to Helena by May 3, 2002. The request is for \$500,000 with a match of \$500,000 coming from the Road and Bridge Department budget. The Cameron Bridge will be removed and replaced, with the old bridge being moved and placed on Skunk Creek to meet the needs of bridge replacement there. The funding will be received by July 1, 2003, with the planning, design and schedule or repair and replacement for summer of 2004. **Commissioner Vincent made a motion to approve Resolution 2002-48, authorize submission of the Treasure State Endowment Program and also a letter of commitment for the application. Commissioner Mitchell seconded the motion. In discussion, Commissioner Mitchell noted that a full presentation was given at a public meeting in Manhattan prior to this meeting. None voting nay. Motion carried.**

Grants Administrator Larry Watson reported on a request for Gallatin County sponsorship to the Montana Department of Commerce for a Community Development Block Planning Grant (CDBG) Gallatin Development Corporation for Community Economic Development Strategy (CEDS). Mr. Watson explained that this is an opportunity for a collaborative effort between Gallatin and Park counties, utilizing the Gallatin Development Corporation to assist us in developing a community economic strategy. The strategy becomes a basis for determining eligibility to apply for a variety of different funding sources for which we are currently not eligible. Specifically the economic development administration funding that we intend to apply for some major infrastructure projects in Gallatin County such as the water and sewer needs in the Four Corners area. Demographics are needed in order to determine need and in order to qualify. Alicia Bradshaw, Director of the Gallatin Development Corporation explained that this is a great way to begin to plan for economic development in smaller areas of the county like Manhattan, Three Forks, Four Corners, etc., identify their needs and apply for funding for infrastructure in these areas. The Gallatin Development Corporation is matching the cost of the study with \$10,000, and are asking that each of the other entities involved, including Gallatin County, contribute an additional \$5,000 each. Park County is applying, but their project is separate from Gallatin County's and Gallatin County is the main project just described. Park County will be putting in more funds than Gallatin County since they are on their own. Fiscal Officer Ed Blackman has not reviewed this proposal and assured availability of funds, however the actual signing of the documents is scheduled for a Commission office meeting so that he can review the proposal. Mr. Watson expressed that he has identified areas from which the match can be pulled from, for example the County's revolving loan fund and in-kind donation of all county administration time can be considered match towards the \$5,000 match. **Commissioner Vincent moved to approve the request to sponsor the application to the Montana Department of Commerce for the Community Development Block Planning Grant in conjunction with Gallatin Development Corporation for a Community Economic Development Strategy, contingent on the approval of Fiscal Officer Ed Blackman relative to funding sources for the match. Commissioner Mitchell seconded the motion. In discussion, Commissioner Vincent explained that economic development pertains to all of us, and the quality of infrastructure, education, job force, environment, and quality of life, in addition to the tax structure affect economic development. None voting nay. Motion carried.**

Clerk and Recorder/Surveyor Shelley Vance reported on the consideration off the abandonment of an access road to un-subdivided property east and west of Pleasant Valley Subdivision. The viewing committee consisted of Ms. Vance and Commissioner Murdock, and notice of the public hearing was published in the High Country Independent Press on April 11th, and an affidavit of mailing whereby notice of the public hearing and a copy of the viewing committee report dated March 29, 2002 was sent by regular mail to all signers of the petition, land owners named on the petition, individuals named in the petition that could be affected, postmaster of the area, and the public lands association; mailed April 1, 2002. At the time of receipt of petition and went to view the roads, one thing that was left out of the report but is important to note is that there was snow on the ground. As a result of the snow, it was found later, that some of the information included in the viewing committee report is inaccurate. The report states that the roads are not constructed, however it is now know that this is not true. Pleasant Valley Subdivision is outside of the subdivision. Area number one referred to in the petition is the unnamed road and it is between lots 7 and 8 in Pleasant Valley Subdivision. Area number two as named in the petition and is commonly know as Bitter Root Way and it accesses property to the west which is the French property and the property to the east which is the Harrington property. The petition was submitted to the County to abandon both of the

referenced access roads. Bitterroot Way, a roadway between lots 5 and 6, is constructed. When viewing the area without snow on the ground, it is apparent that the trees as listed in the committee report as being in the roadway, are not – they are to the south of the roadway. Also, to the right of where Bitterroot Way, there is a small out-building, probably not a permanent structure, sitting in the roadway. There has been a lot of comment submitted to the Clerk and Recorder and the Commission regarding this petition. The viewing committee determined that comment from the City of Bozeman was necessary since much of the land surrounding the proposed properties to be abandoned is within the City limits or in the near future may be within the City of Bozeman if annexed. E-mail was received following the request for comment, from the Director of Public Service in the Planning Department within the City of Bozeman. This message stated that the City of Bozeman has a need for street access, has a need for rights of way for sewer and water connections, has a need for pedestrian access between housing developments, and the lack of pedestrian/vehicular access other than Babcock and Durston in the area, they have diligently striven to connect Mendenhall from 24th Avenue to Fowler. However, the e-mail did not indicate objection of the proposed abandonment's. According to Gallatin County subdivision regulations, the sub-divider shall arrange the roads to provide for the continuation of roads between adjacent subdivisions and subdivided properties when such continuation is necessary for the convenience, movement of traffic, affective provisions of emergency service and efficient provision of utilities. The regulations also address the need to provide emergency access to facilitate traffic, provisions for emergency services and utility easements, to all subdivisions of six or more lots with a second means of access. At the time of viewing, the committee determined that no one would be land locked or denied access to public land if either abandonment was granted. The petition was taken for its value without further investigation; however, Mr. French owns property to the south and Celia French, who was not named on the petition and did not receive notice of the petition to abandon, owns a 9-acre vacant lot. Cascade Subdivision to the west of the French property, but whether or not access would be denied is undetermined at this time. The viewing committee stated that while it is feasible to grant the abandonment, the viewing committee recommends that the Commission weigh the desirability of granting the petition based upon comments received by the City of Bozeman and the sections cited from the Gallatin County subdivision regulations. City of Bozeman Assistant Planner Karin Caroline, acting as representative for the City of Bozeman, entered a letter from the Mayor Kirchoff and the City Commissioners, dated April 19th, into the record. The letter is regarding the proposed vacation of the dedicated roads within Pleasant Valley Subdivision. The first paragraph of the letter was read into the record: "The purpose of this letter is to advise the Gallatin County Commission that the City of Bozeman opposes the vacation of any platted and dedicated rights-of-way in the Pleasant Valley Subdivision. These rights-of-way were platted in accordance with longstanding public policy to provide access to adjacent undeveloped lands; they should be retained to ensure orderly "smart growth" in this rapidly developing area." The remainder of the letter summarizes the reasons for opposition to the vacation of those rights-of-way. The Director of Public Service was asked to make comment on the proposed vacation prior to the review of the West Glen Major Subdivision that has since come before the City Commission. After considering all public testimony, City Commissioners voted unanimously to require the developer to provide a 60-foot public right-of-way to connect West Glen Subdivision to the existing public right-of-way in Pleasant Valley. Those rights-of-way were placed in the original design due to foresight of future growth possibilities; they need to be left there for such purpose. Ms. Caroline explained the plans for streets in the areas, particularly those that are planned through the West Glen Major Subdivision. Access from one development to another would allow for pedestrian and traffic movement and also allow adjacent neighborhoods to use the park planned within the West Glen development. Commissioner Murdock asked if the land was vacated would the City leave the condition of approval of the 60-foot right-of-way? Ms. Caroline explained that this condition would not remain if the County vacates the right-of-way, the developer will be required to mirror whatever action the County Commission takes on the property. The County Attorney asked that Ms. Celia French Wood acknowledge her attendance and knowledge of the hearing today. Ms. Wood stated that her son made her aware of the meeting, but she received no letter of notification. Pamela Backstrom, Anna Burkenpas, Greg Kindschi, Martie Stewart, Ross Grubb, Laurie Reed (for Patsy and Kenny Lavdato), Heather DeVries, and Susan Jackson spoke in support of the abandonment of the two roadways, sighting the following reasons: Valley Drive is a gravel road that is paid for and maintained by the residents along the road, increased maintenance by use of adjoining subdivisions would fall on the property owners; the area is a haven for walkers and pedestrians and increased traffic could potentially be dangerous for pets and children that are used to using the "roadways" as park areas; Fowler Road should be the main access for Pleasant Valley Subdivision, and the proposed areas for abandonment have been maintained and landscaped by neighbors. Robert and Brad French and Celia French Wood spoke in opposition to the abandonment of the two roadways. They noted that their father, the original developer of Pleasant Valley Subdivision I, put in the access roads as it was a requirement for plat approval, and the access was to serve as the secondary access for Phase II when it was developed. Phase I was built with the expectation that Phase II would be a mirror image of Phase I. At the time the subdivision was approved, Mr. French was required by subdivision regulations to put in the access roads as they exist now. Bitterroot Way's purpose was to serve as the secondary access to Phase II of the subdivision. Robert and Brad French intend to complete the development plans that their father began, and it would be unfair for

them to lose the right to use that road that they dedicated as access to Phase II. The French's expressed great concern over the property that they dedicated to the public as rights-of-way, being taken out of the hands of the public and given as a gift to a few individuals. On the recorded Pleasant Valley Subdivision Plat, a statement is found that says "...the land contained in these streets is hereby granted and donated to the use of the public forever..." and the French's believe it should remain as such. The approval of the abandonment of the noted roads would deny the French's the ability to use them for the purpose that they were originally dedicated for. Commissioner Mitchell asked George Durkin, County Road Department Engineer, to explain the maintenance of subdivision roads. Mr. Durkin verified that all subdivision roads are dedicated to the public but maintained by the subdivision, not the County. Commissioner Mitchell also asked if this property would be annexed into the City someday. Mr. Durkin stated that it is not scheduled for annexation at this time, but sooner or later all of the land around this area will probably be annexed into the City. The decision made today will not include a determination of what will happen with the land if it is vacated. Commissioner Mitchell asked if the viewing committee letter should be revised given the inaccuracies that have been determined. Ms. Vance stated that a copy of the minutes would be placed in the road petition file to indicate such. In board discussion, Commissioner Mitchell stated that she sympathizes with those people that bought land in the area when it was in the country and expected it to be for a long time, however, it was platted and those roads and streets were dedicated and platted according to the subdivision regulations at the time. As the City of Bozeman expands and more services are needed and more people move in, people that live here will have to give up some of the amenities that we have enjoyed for a long period of time and hopefully they are replaced with new amenities. When the French's property is developed it will have to come under the current regulations and those regulations are a little more stringent than the previous development came under. The previous regulations probably didn't require paved streets, parklands, etc. Currently City property is surrounding this area. If we remove street accesses we actually dump more traffic on existing streets. It isn't practical to take away streets, especially in a part of town that is developing as a part of the City. There are several options that the people in the existing area have, such as creating an RID or SID, create a Homeowners Improvement District or join the one created from the development of the property to the east in order to get the streets paved and a shared cost of the maintenance of the streets in the area instead of it falling on just a few people in the area. Commissioner Vincent stated that he would also be opposing the abandonment. He stated that it is not an easy decision to make, but the compelling deciding factor is the credibility of government itself. It is an issue of elementary fairness, when Mr. French developed the property he did what he was required to do and dedicated the property to the public. If the very government entity that required him to do so now reverses that action, would in essence be telling Mr. French that he didn't really need to, or shouldn't have done it in the first place. It would be unfair to void a good faith commitment. Commissioner Vincent stated that he would be open minded in the future with regards to the East access as far as making that a pedestrian traffic only access, however it is premature to make this decision now with regards to how it would impact new development in the future. There are further options that could be considered such as vehicle calming strategies, lower speed limits, etc. In an effort of fairness and consistency and commitment, it is important to make the decision not to abandon. Commissioner Murdock stated that he hopes to persuade his fellow commissioners otherwise. The best traffic calming is no traffic at all. Commissioner Murdock stated that while he has sympathy for the French's, traffic patterns have changed. Mendenhall doesn't go through, and Fowler will eventually be punched through and another 45 feet will have to be dedicated and be built. The character of the neighborhood is different than those developments around it. It would be intrusive to this county neighborhood that will have to pay for the increased maintenance on the street. Commissioner Murdock asked that the Commissioners at least consider the abandonment of the unnamed portion of road, as the City of Bozeman will approve the West Glen development regardless of the County Commission decision to abandon or not. Commissioner Murdock stated that he is unsure about the Bitterroot Way access and could be persuaded to wait on this one to see what the City requires when and if the French's develop on the other side. **Commissioner Murdock moved to abandon the eastern right-of-way portion for the reasons stated and make a decision on Bitterroot Way later. There was no second to the motion, therefore it died. Commissioner Mitchell made a motion to oppose the request for abandonment of these streets. Commissioner Vincent seconded the motion. Commissioners Mitchell and Vincent voted aye. Commissioner Murdock voted nay. Motion carried with a vote of two to one.**

County Planner Jennifer Koozer reported on the consideration of a resolution of the Gallatin County Commission amending the Gallatin Canyon/Big Sky Zoning regulations. The joint public hearing between the Gallatin County Commission and the Planning and Zoning Commission for this resolution was held on April 11, 2002. A unanimous favorable recommendation was made for this text amendment, which adds some additional uses to the commercial and industrial zone under the Big Sky Zoning Regulations. **Commissioner Vincent moved to approve Resolution 2002-049, amending the Gallatin Canyon/Big Sky Zoning regulations. Commissioner Mitchell seconded the motion. All voted aye. Motion carried.**

The public hearing and consideration of a request for preliminary plat approval for the Coder Minor Subdivision was continued at the request of staff and the developer until April 30, 2002.

County Planner Jennifer Koozer reported on the public hearing and consideration of a request for C & H Engineering on behalf of Dennis and Cindy Menders preliminary plat approval for the Menders Minor Subdivision, described as tract 2 of Certificate of Survey No. 964, located in the SW¼ Section 19, T2S, R5E, PMM, Gallatin County, Montana and is generally located at the corner of Beatty Road (where it turns from east-west to north-south). This is a twelve-acre parcel proposed to be divided into five residential lots. Four of the lots will be approximately one acre with the remaining lot approximately 8 acres. The parcel is not zoned under the Gallatin County plan it appears to be designated either mixed use or agriculture/forestry/residential. Under the draft Four Corners Community Plan that has not yet been adopted, this site is designated as residential. The topography is fairly flat and currently the site is vacant and is being used as horse pasture. The nearby land uses are fairly low to medium density residential and some agriculture uses. It appears that there may be high ground water on parts of the site and South Dry Creek flows through the southern corner of the property, proposed lot five. NRCS data also indicates that there is an intermittent creek that feeds South Dry Creek. In addition, there are a couple of irrigation ditches that are not shown on the plat. There is mature vegetation along some of the watercourses. The lots are proposed to be served by individual septic systems and wells, and would be subject to review under the Montana Sanitations and Subdivisions Act and any systems would have to be approved by the local Health Department. Subdivision regulations require that they would have to have a weed management plan, which they have done and as a condition of final plat approval they will have to enter into a memorandum of agreement regarding their weed management. Road Department Staff Engineer George Durkin has reviewed the proposal and provided standard comments; including a recommendation that the subdivision incorporate an interior road rather than have five new accesses onto the main roads. An alternative to this, Mr. Durkin would consider having shared access for a total of three driveways, minimizing traffic at the intersection. Public notice was sent as a courtesy, though for a minor subdivision it is not required. Two letters have been received from neighbors, Jill and Rich Brauss on Elk Lane and Pat and Leroy Hopper on Cobb Hill Road. The letters expressed concern about weeds and the preservation water rights and irrigation ditches, septic contamination, traffic and water quality and quantity. The Planning Board considered the proposal on April 9th and heard comments from the public about potential impact on water quality and quantity. The Board recommended 9-0 that the subdivision be approved. Ms. Koozer briefly summarized the staff report that contained criteria for the Commission to evaluate and staff findings for considering the subdivision along with the suggested conditions. The Commission needs to make the following determination as to whether or not to approve the proposed subdivision. The basis for the decision shall be whether the preliminary plat, and additional information demonstrate that the subdivision meets the requirements of the Montana Subdivision and Platting Act, the Gallatin County Subdivision Regulations, and the Gallatin County Plan. If the Commission approves the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 3. Applicant shall obtain approval from the Gallatin County Attorney's Office for the following documents: a. Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the property owners' association. c. Restrictive and protective covenants encumbering the real property contained within the subdivision. d. Certificate of a licensed title abstractor. 4. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 5. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 6. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval(s). 7. The final plat shall include building envelope(s) for Lot 5 that is (are) at least 2 feet above the bankfull elevation of South Dry Creek, the intermittent creek that feeds it, and any ditches that cross the property. The final plat shall include a statement prohibiting any construction on Lot 5 outside the building envelope(s), and requiring the finished floor elevation of all structures to be at least 4 feet above the bankfull elevation of South Dry Creek, the intermittent creek that feeds it,

and any ditches that cross the property. 8. For South Dry Creek and the intermittent creek that feeds South Dry Creek, the final plat shall include 35-foot setbacks from the mean high water mark. 9. For all ditches, the final plat shall include an irrigation ditch easement that is at least 15 feet wide on one side of the ditch and at least 5 feet wide on the other side of the ditch. 10. Applicant shall record the following covenants on or with the final plat: a. *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b. *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* c. *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d. *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* e. *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3.* f. *Lot owners acknowledge the presence of an active ditch and potentially high groundwater. Lot owners recognize that flooding and high groundwater are possible and accept responsibility for the location of structures and improvements.* g. *Lot owners shall not interfere with agricultural water user facilities nor remove water without deeded water rights approved by the Montana Department of Natural Resources and Conservation.* h. *Lot owners acknowledge and affirm the rights of agricultural water users and the jurisdiction of applicable federal, state and local agencies with respect to activities within all watercourses.* i. *The artificial feeding of all big game wildlife shall be prohibited.* j. *All garbage shall be stored in animal-proof containers or be made unavailable to animals.* k. *Owners acknowledge that wildlife damage to landscaping and other property may occur. Owners shall accept that risk and shall not file claims against the owners' association or any other governing body for such damages.* l. *Pets shall be controlled by each homeowner, and not allowed to roam at large.* m. *All lot accesses shall be built to County standards as specified in Section 7.G.2 of the Gallatin County Subdivision Regulations.* n. *Any covenant, which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 11. Applicant shall obtain an encroachment permit from the County GIS Department for any access point coming off County-maintained roads. Each lot shall be limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road. 12. Traffic safety concerns associated with multiple lot accesses near an intersection shall be mitigated by the method described in either (a) or (b) below: a. The final plat shall incorporate an interior road to provide access onto Beatty Road for all five lots. With respect to such interior road: i. A pre-construction meeting shall be set with the County Road Department prior to the start of any construction. ii. All roadwork shall be built to Montana Public Works Standard Specifications (4th Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Department in writing prior to final approval. iii. A "homeowners' association" shall be formed for the maintenance of all interior roads. A copy of the homeowner's association bylaws shall be submitted to the County Road Department prior to final approval. b. The final plat shall designate shared access points for adjacent lots, so that no more than three accesses are added to Beatty Road. 13. Forty five feet of Beatty Road south and west of the centerline shall be dedicated to the public for the entire length of the development. 14. All areas of the public right-of-way disturbed during construction activities must be sodded or reseeded. 15. Applicant shall pay road impact fees in accordance with the Gallatin County Road Impact Fee standards. 16. Applicant shall pay fire impact fees in accordance with the Gallatin County Fire Impact Fee standards. 17. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Gallatin Gateway Fire District. Applicant shall provide a final subdivision plat to the Gallatin Gateway Fire District and shall provide written verification from the District that all fire protection requirements have been met. 18. Applicant shall provide a mitigation plan for sheriff services that is acceptable to the County Commission. 19. Applicant shall have up to three (3) years to complete these conditions and apply for final plat approval. Commissioner Murdock asked if condition number twelve satisfies the Road Department concerns regarding road access. Ms. Koozer expressed that she believes it does, but Mr. Durkin will answer that question after the applicant speaks. Mark Chandler, C&H Engineering and Surveying, spoke on behalf of the applicant. Mr. Chandler outlined the specifics relative to the proposed subdivision, stating that the road issues were discussed with both the Road Department and the

Planning Department. Mr. Chandler stated that the requirement for a common access for all five lots when Elk Lane is not a heavily used road. They suggest that lots one and two have a common access on to Beatty Lane and lots three, four, and five have individual accesses onto Elk Lane. Mr. Chandler stated that the one issue that needs to be discussed is the letter from the County Sheriff stating that the mitigation for this subdivision would amount to \$4,846.88. The projected build out value is in excess of one million dollars. This will provide significant tax base that will contribute to fire and police departments. The quoted amount does not necessarily seem fair for this one development. Commissioner Mitchell inquired about the one driveway to serve Beatty Road, stating that this seems doable and might save the developer money as well. Mr. Chandler stated that subdivision regulations require public access into each lot; a driveway wouldn't meet this requirement. A dedicated road in this area would take up to ½ acre. Commissioner Mitchell asked which conditions the applicant is not in agreement with and Mr. Chandler stated that they are not in agreement with 12b, as it is overly restrictive, and 18 regarding Sheriff mitigation. Public comment: Jill Brauss spoke, stating that she has lived in the area for 18 years and lives directly north of the proposed subdivision. She stated that Beatty Road, as it comes off Cobb Hill, is the only access to anyone who lives in the area. There are a number of houses along Elk Lane, and their only access is onto Beatty as well. It is a County maintained road and is heavily used by heavy agricultural equipment. The intersection at Beatty and Elk Lane is dangerous, and while a stop sign has been put in, most people don't stop or slow down. There are many walkers, bikers, and school buses on this road. Ms. Brauss also expressed concern about water quality and quantity and the impact of the projected development in the Four Corners area. Mr. David Menders, applicant, spoke regarding the accesses onto the main roads. He stated that he is trying to maintain the integrity of the land between the houses. There is a road that is being developed off of Huffine Lane, Lynx Road, and this will help mitigate the road impacts once it is developed. Commissioner Mitchell asked if 12b, allowing three accesses onto Beatty Road, and Mr. Menders agreed that he would agree with this condition. Commissioner Mitchell asked Ms. Koozer if she would reword Condition 12 to be clearer. Ms. Koozer agreed and suggested: The Final plat shall designate shared access points for adjacent lots so that no more than one access is added to the East-West portion of Beatty Road and no more than two accesses are added to the North-South portion of Beatty Road, and all accesses shall be approved by the County Road Office. This was acceptable to the Commission and the applicant. Commissioner Murdock asked for verification that this proposal is in concurrence with un-adopted Four Corners plan and the adopted County plan. Ms. Koozer concurred, and added a reminder that the Planning Board approved the subdivision 9-0. Commissioner Murdock stated that this information has influence on his opinion, and because this area has been slated as an area for infill, and absent public health, safety and welfare issues, he will agree to approve the proposal. **Commissioner Mitchell moved to approve the Menders Minor subdivision with all conditions as provided by staff minus condition number 18 since this has not been a policy determined by the Commission, with the revised 12b as amended during discussion; finding that this subdivision meets the County Master Plan, was approved by the Planning Board, and meets the subdivision regulations and Montana State statutes. Commissioner Murdock seconded the motion. In discussion, Commissioner Vincent stated that he would be glad to support the motion, except for the deletion of Condition 18. He asked that a substitute condition be added that would state "Upon completion of the construction on each lot a mitigation be paid of \$500.00 per lot." Commissioner Murdock stated that he would not support the suggested change, as it constitutes a condition being placed absent a policy. Commissioner Vincent stated that he would like to ask the applicant if they would be willing to volunteer that payment. Mr. Menders commented on the tax base contribution to the Sheriff and County. Commissioner Murdock explained that there is a portion of the new construction taxes that go towards these services, but it is not adequate at this time and is not enough to keep up with the present needs of the County and public safety. However, he stated that he wouldn't require the fee, as there is no policy in place. Commissioner Mitchell stated that she would not support the proposal of a voluntary fee as it is a five lot minor and the Commission should not be picking and choosing who is and isn't paying the fee. Mr. Menders declined to volunteer to pay the Sheriff's impact fee proposal. The question was called and all vote aye. Motion carried unanimously.**

Gallatin County Planner Jennifer Madgic reported on the continuation of Meadowbrook Estates Major Subdivision. Commissioner Murdock explained that this application was heard on March 12 and that public comment was closed at that time. Currently the Commission is in Board discussion. Ms. Madgic explained that at the time of the public hearing there were concerns that she has since drafted some suggestions and clarifications offered by the applicant's representative Dennis Foremen. The Commission had concerns regarding stronger covenants to protect Acre Creek, snow removal on the streets, the number of pets allowed in the subdivision, parking of RVs and other large structures, density, and possible flooding and water damage from Farmer's Canal and Acre Creek. On March 12 the Commission agreed that the proposal generally complied with the Bozeman Area Master Plan and the Gallatin County/Bozeman Area Zoning

Regulation. The area is in the donut and is zoned R3, medium residential and the density suggested does comply with this zoning restriction, and is even less than it could be at full build out. Mr. Foreman noted in correspondence on April 5 that the plat has been revised so that Acre Creek is completely outside of the lots and serves as part of the overall park area for the subdivision. Mr. Foreman has had discussions with the Farmer's Canal President regarding possible flooding of the Farmer's Canal. There is a management plan that would prevent possible flooding to the satisfaction of the Farmer's Canal, and there is a provision on the revised plat regarding high ground water potential of all of the lots, which borders the Farmer's Canal. There is a provision on the revised plat regarding high ground water potential of lots 41-56 that border the canal. Attorney Susan Swimley submitted a letter expressing a willingness on the part of the applicant to contribute \$500.00 per lot to mitigate any impact on the Gallatin County Sheriff's Department. Adjacent property has a variety of housing types that are similar to those in the proposed property. Mr. Foreman provided a density comparison with the Rae Subdivision, and noted that it has 3.6 units per acre and Meadowbrooks has 3.5 units per acre. The following additions have been made to the conditions and covenants in order to address the concerns voiced by the Commission at the hearing on March 12: p) There shall be a 15-foot setback from both sides of the high water line of Aajker Creek, which shall be left in its natural vegetative state. No fences, ponds or other obstructions within the Aajker Creek setback, and no existing trees may be cut within the Aajker Creek setback. q) As part of the landscape plan, there shall be at least two additional trees planted in the front yard of each dwelling unit. In the event any of these trees die, the lot owner shall replace the tree(s) within six months. r) No pickup camper, camping trailer, snowmobile, boat, trailer, motor home, or any type of vehicle or similar item used for recreational purposes shall be placed upon a lot or driveway for a period of longer than 30 days in a calendar year, unless it is placed in an enclosed structure or it is not visible from other properties, sidewalks, or streets. s) No pickup camper, camping trailer, snowmobile, boat, trailer, motor home, or any type of vehicle or similar item used for recreational purposes shall be parked in public right-of-way for a period of longer than 24 hours. t) No more than two pets over the age of six months are permitted per dwelling unit. The following animals are prohibited within the subdivision: horses, mules, donkeys, cows, goats, pigs, and sheep. 8. Applicant shall install a fence, six feet in height to include barbed wire on top, along southern property boundary along Farmer's Canal easement and along eastern property boundary. 21) The final plat shall contain the following statement: Lots 41-56, due to their close proximity to Farmers Canal, may experience high groundwater. Therefore, basements are prohibited, and finished floor and crawl space elevations should be set as high as possible to prevent groundwater contamination. 28) "fences" is added following "proposed development." Commissioner Mitchell noted that there is only one lot fewer than the original proposal, and Ms. Madgic concurred. Commissioner Mitchell inquired about the location of the road and whether or not it was acceptable to neighbors. Ms. Madgic explained that they went out and marked off where the road would be located and that she understands Mr. Fletcher to be in agreement with the location. The Commission asked Mr. Fletcher if he had been approached about the changes and whether or not he is satisfied with the changes. Mr. Fletcher stated that he met Ms. Madgic and Mr. Foreman and they came to an agreement on the location of the road based on other restrictions. He also stated that the conditions in general meet his needs and they have worked hard to come to an agreement on things that will also meet his needs. Commissioner Murdock stated that a letter was received from Al Lien on April 22nd, though public comment has been closed. Receipt was acknowledged and a summary made on the comments. Mr. Lien expressed concerns about the lagoon, household garbage in the irrigation ditch, adequate soils around the lagoon, and concerns regarding dry seasons and the effect on percolation tests. Commissioner Murdock told Mr. Lien that they would have to rely on the DEQ to make the best decisions. Commissioner Vincent asked Ms. Swimley if she would like to look at the letter and comment on it, she agreed. Commissioner Vincent asked Mr. Durkin about the status of concerns expressed regarding Gooch Hill Road to Huffine Lane. The Road Department required improvement of Gooch Hill Road, as it is the primary access, by the applicant from Dogwood Road to Huffine Lane. In addition, the developer will be required to pay impact fees on the number of lots that are created with the subdivision. There will also be a right turn lane at Huffine Lane added. Commissioner Murdock inquired as to why the applicant is only required to improve Gooch Hill Road to Dogwood Road. Mr. Durkin stated that the bridge does need to be repaired and perhaps this will be done with the impact fee monies. Ms. Madgic stated that she does have letters from Robert and Susan Ingram (Boxwood Drive) who express concerns regarding the detention pond for storm drainage, south of Mender pond. Ms. Swimley expressed her objection to the Commission for opening letters after public comment has been closed. It is inappropriate for these letters to have been opened and put into the public record. The applicant agrees to all of the conditions that have been added, and asked that to condition eight language be added: "and construct a gate along the east end of Dogwood Lane. The gate shall be constructed of like material to the fence." Regarding the improvements to the road, condition 18 is in the exact form as it was originally submitted. The applicant agrees to pay impact fees pursuant to the impact fee policy, and asks to be credited the appropriate amount for improvements such as the turn lane. All other conditions are agreed upon. Ms. Swimley stated that she believes Mr. Lien's concerns regarding the lagoon will be addressed with the system being constructed for the Rae Water and Sewer District. Brent Miller, Gaston Engineering, explained that he is the designer of the detention pond. The detention pond will detain water to the creek, it will be dry except during rain, and is two feet higher than the existing pond so that

there will be no groundwater in the pond. The pond will be reviewed by DEQ and be put in place according to their policy. Commissioner Vincent asked Ms. Swimley for her insight as to covenants 7R and 7S, stating that problems in his subdivision cause him to worry about whether these conditions are clear enough. Commissioner Murdock answered the question by explaining that there is a County ordinance that states if they are dedicated public streets, no one is allowed to park equipment or vehicles such as trailers and campers in the right of way for any extended period of time. **Commissioner Vincent moved to approve the application for the Meadowbrooks Estates Major Subdivision, with the revised conditions including the new language to be added to Condition 8 as entered into the record by Susan Swimley, finding that the application is consistent and meets the requirements of state statute, the Gallatin County Road plan and the Gallatin County Subdivision Regulations. Commissioner Mitchell seconded the motion. Commissioner Murdock asked that the motion be amended to say Bozeman Area Master Plan and the Bozeman Area Zoning Regulations. Commissioner Vincent amended his motion. Commissioner Mitchell amended her second. In discussion, Commissioner Vincent stated that when letters are received after public comment has been closed, the Commission is treading on thin ice when those letters are allowed to be considered as if the public hearing were still open. He suggested that in the future, in similar circumstances, these letters should not be received at all and should be turned away or passed to the Planning Department unopened. The fail safe here is that if a letter is submitted that substantially impacts the application, Planning can then forward the opinion to the Commission using the 30-day window available to the Commission in subdivision regulations to reopen the public hearing. If this is formalized this will clear the Commission from problems. Commissioner Murdock stated that he doesn't disagree with these comments, but explained that this has become a more frequent problem due to continuations of subdivisions and it is difficult not to be responsive to the public. Commissioner Mitchell stated that she appreciates the developer making changes in order to satisfy the Commissions' concerns, but feels that the lots are too small and too dense for the area that it is located in. This creates traffic, public health and safety problems. She does not feel that these changes have balanced adequately mitigated the impacts that will be caused. She stated that she is glad the developer worked with the neighbors to work out the location of the road and fencing, but can't get over the feeling that it is too many people in too small of a place. Commissioner Murdock stated that he is voting for the application as he feels that the developer has mitigated to the best of their ability and in good faith with the adjoining land owners, and it is in conformance with the Bozeman Area Master Plan and Zoning Regulations, is on a central sewer system that is being approved, and it is the right place for development of this density. The question was called. Commissioners Murdock and Vincent voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.**

The Commissioners considered approval of additional claims numbered 8009874-8009875, on voucher list dated April 19, 2002, totaling \$15,116.00. **Commissioner Mitchell moved to approve said claims. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.**

There were no pending resolutions. There being no further business the meeting was adjourned at 3:04 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 30th DAY OF APRIL 2002

The meeting was called to order by Chairman Bill Murdock at 9:06 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

APRIL 22, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, and Grants Administrator Larry Watson, Director of Gallatin Development Corporation Alicia Bradshaw, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Noyes. The Commissioners discussed a request for Gallatin

County sponsorship to Montana Department of Commerce for Community Development Planning Block Grant for Gallatin Development Corporation for Community Economic Development Strategy. This is a county sponsored application to the Montana Department of Commerce, with Gallatin and Park County participation. This would allow participating parties to gather information on areas such as Four-Corners regarding their planning and growth needs. The application is for \$30,000 and requires a dollar per dollar match. In-kind donations can be used for a portion of the match. An example of the number one project might be a water and sewer district development. Surrounding communities such as Bozeman and Belgrade may also be willing to submit funds, and two staff people from GDC will be availed for in-kind contribution of their time. This item was continued until a public meeting when a formal decision could be made on a completed application.

The Commission considered approval of asset disposal requests from Planning (1), the Rest Home (2) and the Road and Bridge Department (7). Commissioner Mitchell made a motion to approve the seven requests from the Road Department. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Commissioner Murdock made a motion to approve the requests from Planning and the Rest Home. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of claims listed on voucher list dated April 18, 2002. Commissioner Mitchell made a motion to approve claims including check numbers 8009664-8009666, totaling \$24,555.90. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered an expenditure transfer in the amount of \$410 for Phase III, IV remodel expenses incurred by Facilities and ITS. Commissioner Vincent made a motion to approve said transfer. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

APRIL 23, 2002

- The Commissioners conducted regular County business.

APRIL 24, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Rest Home Administrator Connie Wagner, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Noyes. The Commissioners considered approval of an Intergovernmental Transfer between the State of Montana and Gallatin County for the Gallatin Rest Home. The State will pay the County \$398,821.29 and the County will pay the State \$262,790.86 – a benefit of \$136,030.43 to the County. Commissioner Vincent made a motion to approve the Intergovernmental Transfer between the State of Montana and Gallatin County. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Grants Accounting Clerk Jennifer Blossom joined the meeting, requesting the Commissioners consider approval of a grant reimbursement and maintenance agreement for the CTEP Manhattan sidewalk project between Gallatin County and the Town of Manhattan. Commissioner Mitchell made a motion to approve said agreement contingent on the approval of Chief Deputy County Attorney Chris Gray and Fiscal Officer Ed Blackman. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commissioners discussed an invitation from the Yellowstone County Commission to all Montana counties to set up a county booth at the Western Interstate Regional Conference in Billings the end of May. It was determined that if staff members had interest in preparing a display, they would be allowed to do so. Commissioner Vincent made a motion to allow expenditures not to exceed \$300.00 for the preparation of a display at the Western Interstate Regional Conference in Billings. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

APRIL 25, 2002

- The Commissioners attended a special meeting for the purpose of approving an application for a Community Development Block Grant (CDBG) planning grant in cooperation with the Gallatin Development Corporation. In attendance were Commissioners Mitchell and Vincent, Grants Administrator Larry Watson, Director of Gallatin Development Corporation, Alicia Bradshaw, and Commission Assistant Glenda Noyes. This planning grant would allow Gallatin County to work with Gallatin Development Corporation to develop a Comprehensive Economic Development Strategy (CEDS) for the County. The CEDS process will help establish the County's eligibility for additional future funding through the U.S. Economic Development Administration and other related entities. The County will be required to contribute \$5,000.00 as match towards the grant if and when it is secured. \$2,500.00 will be taken from the Revolving Loan fund, and \$2,500.00 will be match in-kind, with the staff time of Larry Watson, Jennifer Blossom, and Ed Blackman being designated towards the grant. Commissioner Vincent made a motion to approve the letter of

application to the Montana Department of Commerce for the CDBG Planning Grant, and to sign the sponsoring application. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

APRIL 26, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated April 25, 2002 in the amount of \$473,882.39.
2. Consideration of Contract(s): Southwest Regional Juvenile Detention Grant FY 2003; Gravel Lease-Mastandrea; and Selbys 2520 Service Agreement.
3. Request for Relocation of Common Boundaries for Amsterdam Lumber, Inc., Alan Miller, and Henry Dyksterhouse located in the NW ¼ of Section 13, T1S, R3E (Intersection of Churchill Road and Kunje Blvd). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock announced that regular agenda Item #3, the continuation of a public hearing and consideration of a resolution of intention to create the Amsterdam RID would be continued until May 7, 2002, and that regular agenda Item #11, the public hearing and consideration of a request for preliminary plat approval for the Meadows PUD/Major Subdivision was permanently withdrawn.

Commissioner Vincent read the consent agenda. Commissioner Mitchell moved to approve the consent agenda as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Two positions were to be filled on the Capital Improvement Program Committee. The position previously held by Commissioner Mitchell, will now, according to changes made to the CIP policy, be held by an additional member of the public serving as a Financial Representative. Commissioner Mitchell, and any Commissioner assigned to this board in the future, will serve as an ad-hoc member to the board. In addition, a vacant position previously held by Personnel Director Kathy Nowierski remains unfilled. One application to fill the Financial Representative position was received from Leon Royer. Randy Kuyath, Human Resources Director, volunteered to fill the Department Head position vacated by Ms. Nowierski. The individual appointed to fill the Financial Representative position will serve out the remainder of Commissioner Mitchell's term, to expire on July 31, 2003. The individual appointed to fill the Department Head position will serve out the remainder of Ms. Nowierski's term, to expire July 31, 2004. Letters of request for participation were sent to all Gallatin County financial institutions, and letters of request for staff participation were sent to all County Departments. There was no public comment. Commissioner Mitchell moved to appoint Leon Royer, to fill the financial member position. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Randy Kuyath, as the Department Head on the committee. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Grants Administrator Larry Watson reported on the final review of applications received for the Community Transportation Enhancement Program (CTEP). Mr. Watson pointed out that in the first public hearing he estimated the County's allocation to be \$140,000, and they received more than anticipated so the actual allocation was \$184,293. He reminded the Commission that last year \$75,000 was set aside and still being held in reserve for a program proposed by Mayor Townsend of Three Forks for a pedestrian trail at the Missouri Headwaters State Park, and they have come back this year requesting another \$75,000. The following three part proposal phasing in additional sidewalk, curb and gutter were received from the Town of Manhattan: a) replace sidewalks from the early 1900's in the downtown area and construct a new sidewalk to connect a low income housing complex to the post office, parks and schools, \$84,490.84; b) complete a sidewalk on South Broadway to connect the town to a new planned unit development being annexed, \$60,107.93; and c) continue the Town Council's efforts to add a safe pedestrian access to the downtown parks, post office and schools, \$71,268.29. Total funding request was \$215,867.06. The total allocation balance after contingency was removed at 15 percent leaves \$196,915. He suggested if the Commission wanted to look favorably at both proposals they would have the money within the allocation, to fund the additional \$75,000 for the Three Forks project and to fund Phase "A" of the Manhattan proposal, in the amount of \$84,490.84, leaving an

allocation balance of \$34,424. Mr. Watson confirmed that he had not yet received an application from the City of Three Forks, although they had until the end of the month to complete one. If not they would again carry over for another year the \$150,000 balance until Mayor Townsend and the other resources he is looking to put into the project have a complete proposal. He noted that he was currently working on a bid package for the sidewalk, curb and gutter project for Manhattan that was sponsored a year ago, and he would have the capability of incorporating this additional work into the contract if the Commission was to approve any of the smaller portions, making a considerable cost savings. There was no public comment. Commissioner Mitchell moved to fund the Manhattan Phase "A", in the amount of \$84,490.84, and set aside \$75,000 for the Three Forks Trail project. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Commissioner Murdock on behalf of Dorothy Bradley the Court Administrator reported on the consideration for a resolution of intent to amend the District Court Department #1 FY 2002 budget to include unanticipated revenues in the amount of \$1,000. There was no public comment. Commissioner Vincent moved to adopt Resolution of Intention #2002-050. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Grants Administrator Larry Watson on behalf Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution approving tax benefits for Montana Furniture Industries pursuant to Statute 15-24-1402 MCA. President and co-owner of Montana Furniture Industries Greg Metzger stated that they applied with the intent to continue to grow and add jobs in the County. Commissioner Mitchell moved to approve Resolution #2002-051. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Grants Administrator Larry Watson on behalf Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Community Corrections FY 2002 budget to include unanticipated revenues for implementing Community Services. There was no public comment. Commissioner Vincent moved to adopt Resolution #2002-052. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Sheriff Jim Cashell reported on the consideration of a resolution of intent to increase the Gallatin County operating budget to include unanticipated revenue of \$156,274, for the public safety Sheriff Department budget for FY 2002. Sheriff Cashell outlined the revenue sources that were received and those that were anticipated to be used to offset increases in the Sheriff Department budget. He noted that he had been in contact with FEMA and they were prepared to wire the funds, although there was discussion about \$7,000 of that cost and he was confident it would be paid. There was no public comment. Commissioner Mitchell questioned whether or not they could approve an operating budget with amounts that were not yet received. She preferred to approve only the amounts that they have received. Sheriff Cashell commented that he felt comfortable they would receive the fire reimbursement funds, and noted that the Care of Prisoners is always a projection. Board discussion took place with regard to the Commission's position should a projected number come in lower than stated in the resolution. Commissioner Vincent moved to adopt Resolution of Intention #2002-053. Seconded by Commissioner Murdock. Commissioner Vincent added that he believed they were safe but he wanted to stated that if they have to revisit this given lower than estimated figures, that this would be the last time he would give approval without confirmation the money is in the bank. Commissioner Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for preliminary plat approval by C & H Engineering on behalf of Michael Delaney and Ileana Indreland for the Cameron Bridge Ranch Minor Subdivision, located west of Belgrade near the east side of Cameron Bridge along the Gallatin River. The property is described as Tract 2A of COS #1975A and Tract 3 of COS #1975 in the SW ¼ of Section 15 and the SE ¼ of Section 16, T1S, R4E, P.M.M., Gallatin County, Montana. The request is for a four lot minor subdivision on 40 acres. The applicant requested a variance due to the length of the cul-de-sac access road. The road will exceed the maximum cul-de-sac length of 1000 feet slightly, however the additional length of it is necessary to provide access to unsubdivided land to the north. The subdivision regulations allow roads that must serve unsubdivided

land to exceed 1000 feet. To mitigate the impact of the length of the road the Belgrade Fire Department requested turnarounds at 500-foot intervals. The road will be paved, and a fire department compliant fill-site will be located near the intersection with Cameron Bridge Road. He noted that the applicant was meeting or exceeding the requirements regarding roads and fire protection. The Belgrade City-County Planning Board initially reviewed the preliminary plat at their March 11, 2002, public meeting. They had considerable concerns regarding the subdivision's proximity to the Gallatin River and voted unanimously to recommend denial of the subdivision as submitted. The Board gave the applicant the option to submit additional information regarding the subdivision under the same application to be reviewed again. The applicant resubmitted the preliminary plat with more information regarding flood issues. The Board reviewed the preliminary plat and voted 4:2 at their March 25, 2002, public meeting to recommend denial of the subdivision. The stated reasons for the recommendation to deny were the floodplain issues, the unpredictability of the river, the potential liability placed on the Planning Board and the County Commission. The Planning Board made no recommendation in regards to the variance request. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. With regards to the criteria, he stated that the major impact on this proposal is the effect on public health and safety regarding potential impacts on flooding. He clarified that a large portion of this subdivision was in the Gallatin River Floodplain. There are areas on each lot designated as "Zone C" by the most current FEMA maps for the area. Zone C is defined as outside the 100-year floodplain. The applicant is proposing to require the top of building foundations to be at least 3 feet above the natural grade on the lot or the 100 year floodplain level-whichever is higher. Mr. Karp explained that should this request not be approved that they now have three lots and no covenants or zoning restricting what they can build. If approved the covenants would restrict the four lots to single-family only. The Commission needs to make the following determinations: A determination as to whether or not to grant the requested variance for the cul-de-sac length; and A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. A Homeowners Association shall be established and be required to maintain Cameron Bridge Ranch Road. g. No lot owner may remove water or cause to be removed water from irrigation ditches or the Gallatin River without deeded water rights, and before any maintenance or improvements are performed on any irrigation facilities, the owner of the waterway must give written permission for the work to be done. h. Lots are restricted to one single-family residence each and corresponding accessory buildings. i. The homeowners association shall participate in the maintenance of the fill site in accordance with Belgrade Fire District Standards. j. The homeowners shall participate in the joint maintenance of the sewer system. k. Building within the floodplain as shown on the subdivision plat is prohibited unless the proper floodplain development permits are obtained from Gallatin County. l. The finished floor elevations for all buildings for human occupancy shall be at least 3 feet above the existing ground elevation or 3 feet above the corresponding 100 year flood elevation for the site, whichever is higher. m. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment

procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7.

Applicant shall make payment of road impact fees and fire impact fees in accordance with the Gallatin County Subdivision Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The road names must be approved by the Gallatin County GIS Department. Cameron Bridge Ranch Road shall be a 60-foot right-of-way, dedicated to the public, and be paved to County Standards with a cul-de-sac at its north end and turnarounds at 500-foot intervals as approved by the Belgrade Fire Department. 11. A detailed signage and drainage plan shall be submitted to the Gallatin County Road Department. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs and the developer shall submit a speed limit study after the road is paved. 12. All required road construction shall be inspected and certified by a licensed engineer. Inspection and certification shall be provided to the County Road Department in writing, and the paving contractor shall submit a two-year written warranty to the County Road Office prior to final plat approval. 13. Encroachment permit must be obtained from the County GIS office for the Cameron Bridge Ranch Road intersection with East Cameron Bridge Road. 14. East Cameron Bridge Road is required to be paved to Gallatin County Standards from Cameron Bridge to the existing paved West Cameron Bridge Road. A copy of the final costs of paving the road shall be submitted to the Road Department. 15. A fill-site shall be installed in accordance with Belgrade Fire Department specifications. The location and Fire Department access to the fill site must be approved by the Fire Department. A final cost of the fill site shall be submitted to the Belgrade City-County Planning Office. 16. The final plat shall contain a statement that includes the following language: Lots abutting irrigation facilities and the Gallatin River may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 17. The final plat shall show the most up to date flood plain information and contain a statement restricting buildings to flood zone C as defined by the FEMA flood maps. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. The applicant Michael Delaney summarized the history of the parcel and further elaborated on the flood issue. He explained that they had some ariel photos taken during the 1997 flood at it highest point and how they overlaid those on the FEMA flood maps, and subsequently realigned boundaries to create three lots with frontage on the river. They installed a private road to access all the lots that was designed to county standards and so in the event of another flood, it would flow over the road without impinging negatively on the floodway. Additionally, they installed a community septic drain field that would be sufficient to handle a large number of homes, as originally they had planned to build a fishing lodge. He commented that this would insure in perpetuity that they would have a large forty-acre open space with the exception of a few homesites. Mark Chandler showed the Commission the ariel photos referred to by Mr. Delaney that were taken during the 1997 flood. Commissioner Murdock commented on his experience with the flood. Mr. Chandler told of his credentials and experience with floodplains, elevation, and hydraulics. He stated that the elevations shot on the ground correlated with the flood elevations shown on the flood maps, and noted that this site is fairly complex, in that it is a braided river, that breaks up into side channels. He spoke of the elevation differences in the West Gallatin River and noted that for a 50 year flood the elevation was only a tenth of a foot lower than the 100 year flood elevation, equating to about an inch and a quarter, and the 500 year flood was about three tenths of a foot higher than the 100 year flood elevation, not quite four inches. He noted that the 1997 flood was approximately a 40-year flood. Commissioner Murdock stated that he did not question Mr. Chandler's work, however it was stated that this is a braided river, and that could change the entire character of the river. Mr. Chandler stated they would have to rely on the flood maps. Commissioner Murdock indicated that the photo was not taken at the maximum flow rate, although it was close. Public comment: Neal Ainsworth the prospective buyer of one of the parcels spoke regarding the flood issue and commented that Zone C, is the same Zone C as the City of Belgrade. Mr. Delaney disagreed with Commissioner Murdock and stated that he had contracted with the ariel photo company and was guaranteed that the photo was taken at the ultimate high-water mark and it indicated water going over the road. Discussion followed as he pointed out for the Commission on the map the water going over the road from the other property. He reiterated that their study and the FEMA study meshed, and they made it more conservative in areas by decreasing the area of Zone C, and increased the area of the floodway. Commissioner Mitchell asked Mr. Delaney what his plans were if this request were not approved. In response Mr. Delaney referred back to the original fishing village plan which he stated would not require any additional county/city approvals. Mr. Chandler pointed out that the system installed for the septic was located in the high area on the third tract, so each home site would have a septic tank and from there it would have a gravity line bringing it up into the system. Commissioner Vincent stated that he could not vote to approve this application for the following

reasons: houses and water do not mix; individual septic and central septic systems are still vulnerable to flooding; flooding is not just water over the bank, it involves many different elements, such as total saturation of an area even if water does not directly flow from the river itself; and about one half of all flooding in the United States involves a great percentage of residential flooding occurs outside the 100 year floodplain. He stated that the FEMA maps did not carry much credibility, as no one from FEMA has ever set foot on this site or near it, and the maps have been proven time and again to not be all that reliable. He commented that the 1997 flood did not approach the 100-year flood, let alone the 500-year flood. Even though he did not doubt the technical data submitted by the applicant, he stated that the data is static and does not consider any number of variables that could dramatically change the effect of a major flood at this site, which include log jams; ice jams; accumulative effects of development both up stream and down stream; plugged culverts; up stream and down stream flood damage that would change the character of flooding possibly for the worst on this site; long term changes in the course of the river itself, as it is a braided river and it is not going to remain as it is today. Commissioner Vincent stated for those reasons under State Statute invoking public health, welfare and safety, he believed the risk was too great and that there was a liability potential that he did not want to commit Gallatin County taxpayers to, and the resubmittal to the Belgrade Planning Board took this issue from a unanimous denial to a 4:2 vote, and that's still 2:1 in opposition. He commented that postulating what the applicant could do on this property if this request were denied is something they could not legally consider in this review. He believed it was out of order, and concerned because it suggested if the Commission did not allow this application to go forward then the applicant would do something with an even greater impact. He stated that they have to look at the application as presented, and the flooding potential, and given all the variables that come into play just makes it to high of a risk for a positive vote. Commissioner Mitchell concurred, noting that the vegetation shows all of the ways flooding has occurred in the past, present, and future. She stated that there was no way in good conscious that she could approve this subdivision, as it was the wrong location. She had never seen anything so obviously inappropriate, and stated that the construction of homes would impact how the water flows through the area. Commissioner Murdock stated that he was conflicted, however he was basically in agreement. He commented that they were suppose to follow the FEMA maps and he was concerned about the legal ramifications, along with the fact that they have an engineer who in good faith showed the flood elevations. He stated that they now have three lots and it can be developed, however he would caution anyone to build there for all the reasons stated and because the river will change. Commissioner Vincent mentioned that he certainly did not want to impugn the work of the engineer in this case although, he believed that without factoring in any variables that the numbers were accurate. He stated that they could not contemplate all the variables, and those variables are great in number and can be onsite, up stream, down stream, and indeterminable. Commissioner Vincent moved to deny the application for the Cameron Bridge Ranch Minor Subdivision, finding it does not meet the standard in the realm of public health, welfare and safety, specifically in regards to the high potential of flooding in the area, under State Statute. Seconded by Commissioner Mitchell, adding this does not meet the criteria as set forth in the Gallatin County Subdivision Regulations and the Master Plan, for the same reason that it does not meet State Statute. None voting nay. Motion carried.

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Gallatin County Planner Jennifer Koozer reported on the continuation of a public hearing and consideration of a request for preliminary plat approval by Gaston Engineering and Surveying, P.C., on behalf of Tim and Karla Coder for the Coder Minor Subdivision, described as Tract 2B-1 of COS #369E, located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, T1N, R5E, PMM, Gallatin County, Montana, and generally located at the intersection of Penwell Bridge Road and Walker Road. The request is to subdivide a 4-acre parcel into two residential lots. Ms. Koozer submitted a vicinity sketch of the area and a letter from Stephen Albert and Michael K. Groff. She briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions, and outlined the applicable goals of the County Plan. Ms. Koozer noted that it was pointed out by Belgrade Rural Assistant Fire Chief Bryan Connelley that under Staff finding 5(c), that there was not a fill site and it was requested that the last two sentences be stricken. As a courtesy, notice was sent to adjacent property owners, and there were a total of four letters received. The letters raised concerns regarding views, wildlife, traffic, water quality and quantity, and the over all appropriateness of the proposed density. On April 9, 2002, the Planning Board considered the proposal and recommended with a 5:4 vote that the Commission approve the subdivision, subject to the conditions recommended by staff. The Commission has one determination to make with this application: A determination as to whether to approve the proposed subdivision. The basis for the decision shall be whether the preliminary plat, and additional information demonstrate that the subdivision meets: The requirements of the Montana Subdivision and Platting Act; The Gallatin County Subdivision Regulations; and The Gallatin County Plan. If the Commission approves the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2.

Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 3. Applicant shall obtain approval from the Gallatin County Attorney's Office for the following documents: a. Restrictive and protective covenants encumbering the real property contained within the subdivision. b. Certificate of a licensed title abstractor. 4. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 5. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 6. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. 7. Applicant shall record the following covenants on or with the final plat: a. *The control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b. *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from Gallatin County, the County may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* c. *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d. *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* e. *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3.* f. *The artificial feeding of all big game wildlife shall be prohibited.* g. *All garbage shall be stored in animal-proof containers or be made unavailable to animals.* h. *Owners acknowledge that wildlife damage to landscaping and other property may occur.* i. *Pets shall be controlled by each homeowner, and not allowed to roam at large.* j. *All lot accesses shall be built to County standards as specified in Section 7.G.2 of the Gallatin County Subdivision Regulations.* k. *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 8. Applicant shall obtain an encroachment permit from the County GIS Department for any access point coming off County-maintained roads. Lot 1 shall be limited to one driveway access, which shall be located at least 75 feet from the nearest intersecting County road. 9. Forty-five feet of Penwell Bridge Road, south of the centerline and forty-five feet of Walker Road, west of the centerline shall be dedicated to the public for the entire length of the development. 10. All areas of the public right of way disturbed during construction activities must be sodded or reseeded. 11. Applicant shall pay road impact fees in accordance with the Gallatin County Road Impact Fee standards. 12. Applicant shall pay fire impact fees in accordance with the Gallatin County Fire Impact Fee standards. 13. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Belgrade Rural Fire District. Applicant shall provide a final subdivision plat to the Belgrade Rural Fire District and shall provide written verification from the District that all fire protection requirements have been met. 14. Applicant shall provide a mitigation plan for sheriff services that is acceptable to the County Commission. 15. Applicant shall have up to three (3) years to complete these conditions and apply for final plat approval. The applicant's representative Steve Rude of Gaston Engineering stated that the applicant was in agreement with the conditions, except conditions #9 and 14. The applicant preferred to not make a mitigation payment to the Sheriff, as thus far no minor subdivision has paid it. He commented with regard to condition #9, stating that the Road Department's requested 45 foot dedication was overboard, as neither Penwell Bridge Road or Walker Road were designated as major collectors, and even then, regulations only required 80 feet of right-of-way. Therefore, he requested that it be replaced with the standard 30-foot right-of-way dedication. Mr. Rude questioned the Road Department data, which indicated that this area carried over 300 adt's, and stated that the increased traffic was due to construction traffic to the Running Elk Ranch across the road. Public comment: Jerry Mollock and John Dunse. The following concerns were expressed: destroying the character of the neighborhood; not consistent with the original intent; traffic; dust; and sheriff services. Commissioner Murdock reported the following letters were received: Steve Albert and

Michael Groff in opposition, dated April 29, 2002; Steve and Gail Albert, Mike Groff, Richard and Charmaine Parker, Robin Jones, and Jerry and Margaret Gray, in opposition dated April 5, 2002; Jerry and Annie Mollock in opposition, dated April 9, 2002; Thomas J. Roffe in opposition, dated April 7, 2002. Commissioner Murdock also noted that he received a phone call from Steve Albert summarizing his letter. Mr. Rude clarified that this property exists today as a result of the Montana Subdivision exemption laws. It was his opinion that this may be tighter than the immediate neighbors but it was not inconsistent with the general area. The applicant Tim Coder addressed concerns that were expressed by the neighbors, such as view scape, wildlife, water impact, traffic volume, stewardship, division of property, livestock, and loss of farmland and rural lifestyle. In response to the right-of-way, George Durkin stated on behalf of the Road Department that the accumulative effects of all the subdivisions, add traffic and if they have the chance to acquire right-of-way they do it, especially with the traffic counts. Commissioner Murdock commented that this was a pattern of sprawl and leap frog development that was started with exemptions and other minor subdivisions, and now they were at a point of where do they stop. Commissioner Mitchell expressed concerns with this creating density, and the lack of consistency with adjacent lots. Commissioner Murdock stated the need to be consistent. Ms. Koozer clarified that the applicant signed an extension agreement. Commissioner Murdock stated if he saw an overriding public benefit he would be swayed to approve it however, he did not see it. Commissioner Mitchell suggested postponing the decision until she could visit the site. Commissioner Vincent concurred. Commissioner Murdock noted that the public hearing portion was closed and that the decision would be continued until the May 7, 2002, public hearing to be held in Manhattan.

Gallatin County Subdivision and Planning Manager W. Randall Johnson reported on behalf of Gallatin County Planner Jennifer Madgic on the public hearing and consideration of the fee adjustment of County Road and Fire Impact fees per Section 12.3 and 13.1 of the Gallatin County Subdivision Regulations. Mr. Johnson noted that the fees were adopted in August 1996 (fire) and May 1997 (roads), and annual adjustments have not been made to the original fees. The current per lot fire protection impact fee is \$496, and the current per lot road impact fee is \$1,596. Lee Provance, Gallatin County Road and Bridge Superintendent addressed the issue in a February 8, 2002, memo to the Commission. Based on the U.S. Consumer Price Index, Mr. Provance calculated a CPI increase of 10.2 percent, which results in the following increases to the road and fire impact fees: Road Impact Fee \$1,759 and Fire Impact Fee \$547. He stated that although the County Impact Fee policies state the following: Such adjustments in the amount of such fee(s) shall become effective immediately upon calculation by the County, and shall not require additional action by the Commission to be effective, the Commission requested that the impact fee adjustments be scheduled as a regular agenda item. Mr. Johnson stated that the Planning Department received a letter from Dale Beland, dated April 29, 2002. Mr. Johnson stated that he reviewed the recommended adjustment and was satisfied. Commissioner Murdock acknowledged receipt of an email from Gallatin County Attorney Marty Lambert stating that it was his opinion that the Commission has the authority to adjust the impact fees. He also received a phone call from Chief Civil Deputy County Attorney Chris Gray addressing Mr. Beland's letter that urged the Commission to delay their decision on the adjustment. Mr. Gray advised the Commission to not delay the decision. There was no public comment. Commissioner Vincent moved to adopt the Road Impact fee increase of 10.2 percent to \$1,759, and the Fire Impact fee increase of 10.2 percent to \$547, to reflect the CPI increase reflected in the memo to the Commission from Gallatin County Planner Jennifer Madgic. Seconded by Commissioner Mitchell, reiterating that she has never been in favor of impact fees and she preferred to have the developers do exactions, rather than trying to administer these impact fees and spend them in the area of which they are collected. She commented on the fact that the County government does not have self-government powers and she was not so sure they had the power to implement impact fees contrary to the County Attorney's statement. However, she believed they should be implemented fairly. None voting nay. Motion carried.

There were no pending resolutions. There being no further business the meeting was adjourned at 11:40 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 7th DAY OF MAY 2002

The meeting was called to order by Chairman Bill Murdock at 9:09 A.M., at the Manhattan High School Activity Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

APRIL 29, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Road and Bridge Superintendent Lee Provance, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Noyes. The Commissioners considered approval of a Supplement to February 16, 1965 Gallatin County/Gallatin National Forest, Forest Development Road Cooperative Agreement Year 2002 annual Maintenance Agreement. Commissioner Vincent made a motion to approve said agreement, noting Mr. Provance's recommendation to do so. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioners discussed the possible need to amend Resolution 2001-51, a resolution restricting the use of Bear Canyon Road. The resolution simply states that the road is closed from April 15 through June 15th of each year. This implies that no access is allowed, regardless of mode of transportation. Mr. Provance agreed that pedestrian traffic should be allowed, and for ease sake the Commission may want to change the resolution to state "closed to motorized traffic." The Commission agreed to do so, and asked that Ms. Noyes prepare an amended resolution to that affect, under the advisement of Chief Deputy County Attorney Chris Gray. The Commissioners considered a request from GIS Coordinator Allen Armstrong to contribute to the printing costs of maps prepared by the GIS Department for GVLТ. Commissioner Vincent made a motion to approve an expenditure of \$250.00 from PILT or other contingency funds as a contribution to the printing costs of the GVLТ maps by the GIS Department. The fund will to be determined by Fiscal Officer Ed Blackman, but not come from the GIS or Commission budgets. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commission considered approval of a budget transfer request from the Youth Probation. Commissioner Vincent made a motion to approve said request, transferring funds from Youth Probation's training budget to their travel budget. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commission directed Ms. Noyes to advertise for applicants to serve on a Four-Corners Advisory Council, to give recommendations to the Commission regarding sewer and water, incorporation, planning, roads and highways, and other issues pertaining to the Four Corners area.

APRIL 30, 2002

- The Commissioners conducted regular County business.

MAY 1, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Chief Deputy County Attorney Chris Gray, Facilities Director Bob Isdahl, Finance Officer Ed Blackman, Realtor Mike McKenna, and Commission Secretary Rose Blaskovich. The Commissioners discussed authorization of the county to enter into a real estate agreement with Mike McKenna and authorization of Mr. McKenna to send letters of intent to the Planalp Building owners and Martel Low and High Rise owners to initiate sale conversations. Mr. Blackman discussed the authorization and explained that an agreement such as this is required under state statute in these situations. Mr. McKenna, who with this agreement will become the broker for the County, explained that currently there are three properties, in addition to other alternative sites that are being considered for purchase by the County. A letter of intent stating that the county is interested in the properties and authorizing Mr. McKenna to act on the county's behalf needs to be submitted. Mr. McKenna submitted a Buyer Brokerage agreement, Mr. Gray has reviewed and requested deletion of several provisions; this met with the approval of Mr. McKenna. Commissioner Mitchell made a motion to enter into a Buyer's Brokerage Agreement with Mr. McKenna, McKenna Realty, contingent upon Mr. Gray's approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Mr. Isdahl requested the Commission consider approval of a contract with Securitec Safety Systems for the Duress Alarm System. Commissioner Vincent made a motion to approve said contract. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Mr. Isdahl presented a proposal and recommendation to continue with the current contract proposal for custodial services with Davis Maintenance for a one-year period. Due to the construction and conditions of the building, Mr. Isdahl felt another company would probably not apply, and it may end up costing the county more. It was decided that this contract would be re-advertised next year. Commissioner Mitchell made a motion to approve the contract with Davis

Maintenance. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

MAY 2-3, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Approval of claims were presented by the Auditor dated, May 2, 2002 in the amount of \$363,282.72.
2. Notification of Rate Adjustment for Gallatin County Rest Home for FY 2003.
3. Consideration of Contract(s): Federal Equitable Sharing-U.S. Department of Justice/Gallatin County Sheriff's Office; Community Mediation Center-Justice Court; Between ADSGC and Gallatin County to Facilitate Use of Alcohol Tax Funds for Payment of ADSGC's performance of Court Ordered Alcohol and Drug Services.
4. Request for Relocation of Common Boundaries for Kessler Farms, Inc., and Thomas and Shannon Nygard located in Sections 5 & 8, T3S, R5E (Enders Road). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Relocation of Common Boundaries for Charles and Sarah Briggs and Bob Ward located in the SE ¼ of Section 4 and the NE ¼ of Section 9, T2S, R4E (2400 Ward Road). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Lot Aggregation for Scott Debra Hinkley located in the SE ¼ of Section 34, T6S, R3E (Nordic Land, Big Sky). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Final Plat Approval for the Christensen Commercial Minor Subdivision. Preliminary plat approval was granted on November 14, 2000. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.
8. Request for Final Plat Approval for the High K Subdivision. Preliminary plat approval was granted on January 16, 2002. Belgrade City-County Planner Jason Karp states that the conditions for final plat approval have been met.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Mitchell moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Commissioner Murdock announced that regular agenda Item #3, the continuation of a public hearing and consideration of a resolution of intention to create the Amsterdam RID was continued at the request of the RID representative, until further notice.

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on behalf of Gallatin County Planner Jennifer Koozer on the continuation of a public hearing and consideration of a request for preliminary plat approval for the Coder Minor Subdivision. Mr. Johnson summarized that at the conclusion of last week's hearing the Commission voted to continue their discussion and action until they had an opportunity to visit the property. Commissioner Murdock reiterated that the public hearing portion was closed last week, and to date they had not received any comment. Commissioners Vincent and Mitchell visited the site separately. Commissioner Vincent stated that unless there was a very strong argument presented by the other Commissioners, he was not inclined to approve this application. He believed that it was inconsistent with the nature of the area and the established densities. Commissioner Mitchell concurred, adding that the family transfer was the first bite at the apple of which only one is allowed. She stated that they would be creating density at the corner of Penwell Bridge and Walker Road that was not desirable and they were not trying to create a village. The rural aspect with larger lots is what those residents wanted therefore, she was not going to support the request. Commissioner Murdock was concerned with being consistent and noted that they needed to make the distinction if they were to deny this subdivision, and make the distinction clear if they were to approve other minor subdivisions that come before them in this area. He was swayed by the fact they had already used the family transfer exemption, which was a reverse use for the minor subdivision and the lots were smaller. In conclusion it was his belief that this area needs a zoning district, although that was not enough reason to deny this minor subdivision. However, coupled with the history of the tract he believed they should carefully look at any new proposals in this immediate area, because in his opinion it was leap frog development and sprawl. Commissioner Mitchell moved to deny preliminary plat

approval for the Coder Minor Subdivision, with their discussion as findings. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a family transfer exemption for Donald L. Brelsford, located in the S ½ of Section 15, T1S, R7E. Mr. O'Callaghan explained the history of the parcel and the proposed plan. He confirmed there were no other uses of the family transfer exemption, subdivision, or boundary realignments with this parcel. He also noted that it was consistent with the Bridger Canyon Zoning District Regulations. Mr. Brelsford was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Mr. Brelsford further elaborated on the type of logging practices that were planned on this site, noting that at this point it was under a growth situation. Commissioner Murdock noted that the intended uses for a family transfer were totally irrelevant, and that logging was exempt from the zoning district. Discussion followed regarding further review, should the applicant choose to put a home on these parcels. There was no public comment. Commissioner Mitchell moved to approve the Brelsford family transfer exemption, finding that it appears to meet the criteria. Seconded by Commissioner Vincent. Commissioner Murdock added that it was justified and consistent with the zoning and that he did not see a pattern that suggested evasion of the subdivision regulations. None voting nay. Motion carried.

Commissioner Murdock announced the public hearing and consideration of a resolution amending resolution #2001-051, Restricting of use of Bear Canyon Road. In summary, this was to clarify whether or not the closure of the road between April 15th and June 15th, applied to non-motorized uses verses motorized. This action was to confirm that closure to motorized uses only. There was no public comment. Commissioner Mitchell moved to approve Resolution #2001-51A, amending the restricting use of Bear Canyon Road beginning at the terminus of the ski hill and extending generally to the south and east is restricted to motorized and non-motorized vehicle use with a tract width of no greater than 50" in width between June 2nd through April 14th of every year. Seconded by Commissioner Vincent. Commissioner Mitchell modified the motion to include that April 15th through June 15th, of each year Bear Canyon Road beginning at the terminus of the ski hill and generally extending south and east is closed to motorized traffic. Commissioner Vincent amended the second. None voting nay. Motion carried.

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Gallatin County operating budget to include unanticipated revenue of \$156,274 for the Public Safety Sheriff Department for FY 2002. Mr. Blackman pointed out that the amount of the resolution was adjusted downward to \$148,470, as a result of discussions with the Sheriff's office, in that they had not billed the full Department of State Lands amount. Mr. Blackman outlined the revenue sources that were received and those that were anticipated to be used to offset increases in the Sheriff Department budget. He explained if any of these monies are not received by the end of the fiscal year they will be set up as an accrual, and receivables will be set so that the money will be shown as revenue into this fiscal year with the actual cash coming in next fiscal year. There was no public comment. Commissioner Vincent moved to approve Resolution #2002-054. Seconded by Commissioner Mitchell, adding that she did not like to increase budgets based on amounts that are not finalized; therefore she would not support this amendment. She expressed concern with taking care of state prisoners instead of making our local people top priority. Commissioner Vincent reiterated that it would be preferable if the numbers were rock solid. However, he stated that he would vote approval at this time, and if it had to be revisited given lower than estimated figures, he would not approve any other further budget resolutions unless the money was in the bank. Commissioner Murdock pointed out that once local prisoners are convicted they become a state concern. Commissioner Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.

Commissioner Vincent on behalf of Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a request to annex COS 994B located in Section 26, T6S, R3E, into the Gallatin Canyon Consolidated Rural Fire District. The Commission accepted the petition on April 9, 2002; notice of this public hearing was published in the High Country Independent Press on April 25 and May 2, 2002. The Clerk and Recorder received no protests. There was no public comment. Commissioner Vincent moved to request that the Clerk and Recorder draft a resolution and submit to the

County Attorney for approval, and that the resolution will be placed on the Commission's agenda for final approval. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on consideration of a resolution of intent to amend the Gallatin County operating budget to include unanticipated revenue for the DUI Task Force. There was no public comment. Commissioner Vincent moved to adopt Resolution of Intention #2002-055. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on consideration of a resolution of intent to increase the Gallatin County operating budget to include unanticipated revenue for the District Court budget for the Guardian Ad Litem Program. There was no public comment. Commissioner Mitchell moved to approve Resolution of Intention #2002-056. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of formation of the Gallatin County Solid Waste Management District. Mr. Watson briefly summarized that in November 2001 they issued a mailing to municipalities in Gallatin County asking that they consider adopting a resolution of concurrence with the intention to form the Gallatin County Solid Waste Management District. A positive response was received from the municipalities of Three Forks and Manhattan. The municipalities of Belgrade and Bozeman have had significant questions regarding the formation of the district that they have been attempting to respond to since that time. The Commission sent a letter to the administration of the City of Belgrade and Bozeman requesting a response no later than last Friday. Most recently, Mr. Watson attended the City of Bozeman council meeting and discussed the issue of formation with them. The City of Bozeman requested the Commission's attendance at their planning meeting on May 13, 2002, from 3pm to 5pm to go over their questions and concerns of formation of the district. In response, Belgrade City Manager Joe Menicucci stated that they have not had the opportunity to meet and address the letter and they are scheduled to do so on May 20, 2002. Mr. Watson stated that the concerns of both municipalities lay more in the area of representation on the board and how the board will be formed. The City of Bozeman had some legal questions regarding the responsibility and scope of services the board will be required to take on and control over the waste stream within the county, in that they may be limited if they join the district from finding more equitable ways to dispose of solid waste. Some of the issues that effect this are Bozeman's on going efforts to build a transfer station in lieu of the closure of the landfill within the next two years; the efforts to immediately issue a request proposal for a 6.8 acre expansion on the liner at the Logan landfill; Park County Commission's request that the Logan landfill board respond to them concerning the capacity, to begin accepting their municipal solid waste pending the closure of their incinerator; and the contract for the operation of the Logan landfill expires in July, and the Commission's discussion to issue a request proposal for the operation of that facility, in lieu of continuation of the existing contract. Discussion followed with regards to if they had the money for an adequate liner and would there be enough capacity at the Logan site to handle a waste stream from Bozeman for a number of years. Based on the current utilization, Gallatin County Fiscal Officer Ed Blackman stated they would be able to for approximately 25 to 30 years with the entire waste stream. Mr. Watson stated that there was still a response pending to the two municipalities that adopted the resolutions of concurrence. The next step would be to initiate the mailing to the property owners in those areas that have indicated through adoption of the resolution their desire to participate. Public comment: Manhattan Mayor Eleanor Mest and Phil Olson spoke in support for the formation of the solid waste district. Mr. Olson commented that if the district were instituted, and set up under the management of a board, it would have a better ability to initiate a municipal solid waste composting facility, which would relieve about 75 percent of the space needed for garbage. This would work as long as the volume was guaranteed and he believed this would prolong the life span of the landfill. He suggested that the formation be set up as generically as possible, by letting the board decide how to run the district. Discussion followed regarding how to get the representation of the county on the board. Area Manager for BFI Waste Services Dean Ulrich commented that there were other options as opposed to creating a solid waste district, such as going into long term contracts with haulers, which would guarantee volume. Further discussion took place regarding hauler competition and refuse districts. Commissioner Murdock asked Mr. Olson to explain why a refuse district for the county would be better than privatizing the management of the landfill, and the hauling of the solid waste and possibly the landfill itself. Mr. Olson responded that the garbage industry is set up as a monopoly, and if they have control of the hauling, land filling and setting of the prices then the citizens have no way of addressing the issue of possible financial manipulation, although

he was not saying that was the case now. He added that it was a good clean way to make sure that it could be controlled. Mr. Ulrich responded that it could happen, however that is not how they run their business. He commented that BFI has been in operation in Missoula for many years and they have the lowest operating land fill in the state, and that it would be a very similar situation in Gallatin County if they were the primary hauler. Mr. Olson replied that when BFI became the only hauler that there was an immediate increase on quite a few commercial accounts of over one hundred percent. Therefore, he believed that competition was good. Ms. Mest stated that she would really like to see the composting take place. Mr. Ulrich acknowledged that there was a price increase, however wages were doubled and there were a lot of unpaid land fill bills prior to the acquisition, which are now paid, as well as property taxes. He explained that since then they have limited their price increases primarily to CPI. The Commission discussed the creation of the district, and concurred that it was time to move forward by letting Belgrade and Bozeman know their action was eminent and they would not continue to delay any further. It was noted that they would have to start construction of the liner immediately because they would run out of room by fall if they do not.

There were no pending resolutions. There being no further business the meeting was adjourned at 10:29 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 14th DAY OF MAY 2002

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the Belgrade City Council Chambers. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

MAY 6, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Commission Secretary Rose Blaskovich and Commission Assistant Glenda Noyes. The Commissioners discussed formation of a Gallatin County Solid Waste Management District. Mr. Gray was directed to pursue options and consult other county's RFP documents for examples. The Commissioners considered approval of six budget transfers for the Auditor's office. Commissioner Mitchell made a motion to approve the six budget transfer requests submitted by the Auditor's office. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. The Commissioners discussed a contribution to the M Restoration Project, and generally declined doing so.

MAY 7, 2002

- The Commissioners attended a special continuation budget discussion meeting. In attendance were Commissioners Murdock and Vincent, and Commission Assistant Glenda Noyes. Commissioner Murdock made a motion to move the Public Meeting scheduled for July 2nd to a location close to the Courthouse, as the budget will be discussed at this meeting. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioners discussed whether or not to include a computer for Commissioner Murdock into the budget for FY 2003. Commissioner Vincent made a motion to change the Commission's submitted budget to include a computer for Commissioner Murdock. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

MAY 8-10, 2002

- The Commissioners conducted regular County business.

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- Landfill Revenue for April 2002: \$55,868.84.
- Payroll for April 2002: \$1,113,080.42.

- Clerk & Recorder's Fees Collected for April 2002: \$67,947.22.
- A-101's for April 2002; \$1,708.56.
- Application for Cancellation of Taxes for April; \$3,504.65.
- New Hire Report for April 2002: Eric Bryson, Brooke Budde, Dena Daniel, Rachel Lunn, Anita Malmquist, Mary Noack, Amanda Rufer, Loran Simard, Denise Stahl, Maria Tande Lamb, Giovanna Tritico, Katrina Vaira, Anna Volkersz, Kyle Wasson

Terminated Employees' Report for April 2002: Stephanie Albro, Brooke Budde, Donald Carlson, Jeannette Heyder, Eugene Houghtaling, Adam Klocke, Bobbie Mainwaring, Laurie Taylor

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated May 9, 2002 in the amount of \$425,418.77.
2. Consideration of Contract(s): Operating Agreement between Montana Fish, Wildlife and Parks and Gallatin County Sheriff's Office; and Gallatin River Ranch Fire District and Gallatin County-Use of Fire Protection Impact Fee Revenues Agreement.
3. Request for Approval of an Improvements Agreement and Final Plat Approval for the Milligan Minor Subdivision. Preliminary plat approval was granted on January 16, 2002. The developer submitted an improvements agreement and a letter of credit in the amount of \$156,413, which has been reviewed and approved by the Gallatin County Attorney as to legal form. Belgrade City-County Planner Jason Karp states if the improvements agreement and the letter of credit are accepted then the conditions for final plat approval have been met.
4. Request for Common Boundary Relocation Exemption Between the Town of Three Forks and Brian P. and Michael Lane, dba Pratt Mtn. Partnership, Ranchers, located in the NE ¼ of Section 1, T1N, R1E, (Pratt Mtn. Partnership) and the NW ¼ of Section 6, T1N, R2E, (Fairview Cemetery). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda, noting that consent agenda Item #3, would be placed last on the regular agenda for further discussion. There was no public comment. **Commissioner Mitchell moved approval of the consent agenda as amended. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

One vacancy exists on the Bridger Canyon Rural Fire District Board of Trustees due to the resignation of Herbert Rosengren. Appointment to fill this term will be on an interim basis until the next Fire District election to be held on May 6, 2003. One application was received from Dr. Edward Amende, as well as a letter of recommendation in favor of Dr. Amende from Chairman of the Board Charles H. Raches, Jr. There was no public comment. **Commissioner Vincent moved that Dr. Edward Amende be appointed to the Bridger Canyon Rural Fire District Board of Trustees. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Captain Richard Pease of the Salvation Army presented a proclamation declaring the period of May 13-19, 2002, Salvation Army Week in Gallatin County, Montana. The Commission commended the Salvation Army for their much appreciated help and work in conjunction with Gallatin County's other services in times of distress. There was no public comment. **Commissioner Mitchell moved to pass the proclamation declaring the week of May 13, 2002, "National celebration of The Salvation Army's Service" in Gallatin County. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Chaplain Warren Hiebert of the Sheriff's Department, the Bozeman Police Department and other law enforcement agencies of Gallatin County presented a proclamation declaring the period of May 12-18, 2002, "National Police Week", and the day of May 15, 2002, as "Peace Officers' Memorial Day". Chaplain Hebert presented everyone with a blue ribbon to put on their vehicles to honor men and women in law enforcement. There was no public comment. The Commission spoke in support of the proclamation and commended the law enforcement officer's of Gallatin County. **Commissioner Vincent moved to approve the proclamation recognizing "National Police Week" from May 12 through 18, 2002, and May 15, 2002, as "Peace Officer's Memorial Day". Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

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Commissioner Murdock on behalf of Ellen King Rogers presented a proclamation declaring the week of October 20, 2002, "Gallatin Valley Pet Care Week". There was no public comment. **Commissioner Vincent moved to approve the proclamation declaring the week of October 20, 2002, "Gallatin Valley Pet Care Week". Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

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Attorney Susan Swimley, on behalf of the County reported on the continuation of a public hearing and consideration of a resolution of intention to create the Amsterdam Rural Improvement District. Ms. Swimley provided each of the Commissioners with a packet containing a certificate of vote, a resolution of intention and the exhibits referred to in the resolution of intention. She explained the RID process procedure, noting the issues before the Commission were to determine that it was in the public's interest and convenience to create the Amsterdam Rural Improvement District, and whether or not to pledge the Rural Revolving Fund to back the sale of the bonds for the improvements in this district. Along with those determinations the Commission needed to make findings based on that information and with their discretion that the Rural Revolving Fund would be adequately protected in the sale of those bonds. In summarizing the history of the RID, Ms. Swimley noted that in early March the Commission was asked by the developers of the River Rock Subdivision to consider a waiver of the petition process to create the River Rock RID, to do improvements on Amsterdam Road. The Commission agreed to waive the petition process for the RID. She explained that the design and expansion of Amsterdam Road has been an on going process, involving the installation of a light at Royal Road. Subsequent approval of the Landmark Subdivision, north of the Amsterdam Subdivision required the installation of a light at Thorpe Road, and for them to waive their right to protest the creation of an RID. A boundary diagram and a list of improvements were presented to the Commission at the time the waiver was requested, which entered into a discourse between the Road Department and the engineering firm to discuss what actually needed to be done and how Amsterdam Road would be improved from where MDOT stopped at the interstate. The Commission conducted a couple of noticed hearings with staff and the proponents of this RID to review the proposed boundaries and from that the Amsterdam RID evolved. The amount of improvements will be approximately \$2.8 and will include the expansion of Amsterdam Road, two lights, extra turn lanes, and additional work. The work will start near where MDOT ceased their improvements of Amsterdam Road and continue over the bridge. In doing that the Commission was asked, in addition to the waiver of the petition process, to make a finding or determination that they were consciously not requiring the proponents to have the residents of the Landmark Subdivision sign a petition, as they will be paying for the light at Thorpe Road and have waived their right to protest the creation of a rural improvement district. Ms. Swimley pointed out that in addition to the 5 percent contribution to the rural revolving fund for the Amsterdam improvements and the light at Thorpe Road, the developers of River Rock and the developers of the Landmark Subdivision put in the budget a special revolving fund to back those RID's, because there are a substantial number of lots owned by singular entities. As additional security for the Amsterdam RID there is \$136,000 going into the revolving fund, and an equivalent \$136,000 that will go into a special fund in case something happens with the development, which is also being done for the light at Thorpe Road on the Landmark portion of the RID. She asked that the Commission make a special finding if they believed there was not a substantial amount of diversity of ownership, and to determine if the additional 5 percent on each of the amounts is sufficient to back the bonds. The combined special revolving fund would be approximately \$145,000. Ms. Swimley requested feedback from the Commission regarding the use of impact fees should they make the determination that there is sufficient security to back the sale of these bonds with the revolving funds and the special funds and if it was in the public's convenience and general welfare to create the RID. The use of the impact fees would be two separate conditions, the first being whether the Commission would contemplate using existing impact fees already paid from subdivisions recently and rationally related to these improvements to pay down the bonds, or to issue less bonds in this case. This would have to be a separate noticed hearing with the information needed to determine which subdivisions would be relative. The second would be if the Commission were willing to make a commitment that future impact fees would be used to pay down the bonds early. If this resolution of intention is passed the first notice would be published on May 23rd and the second would be May 30th, 2002. The protest period will end June 7, 2002. They added extra time for the notice because the developers of River Rock planned to conduct a subdivision meeting on June 4, 2002, and wanted the owners of River Rock to attend the meeting and also if they chose, to appear at the hearing where they could protest against the amount or to the method of the assessment. It would then be placed on the agenda for the June 11, 2002, public hearing for protests. Commissioner Vincent commented that he received a call from Gallatin County Clerk and Recorder Shelly Vance with concerns regarding publication and notice. Discussion followed regarding the time frame and it was determined that it

would be adequate, although if not Ms. Swimley noted that the dates could be modified for another week. Project engineer Rick Kerin, of Kerin and Associates stated that the RID revolving fund for Gallatin County would not be jeopardized with the creation of the Amsterdam Road and Thorpe signal RID for the following reasons: The 660 platted, developed and assessable lots, tracts or parcels within the district have a minimum market value of approximately \$108.6 according to estimates obtained from Realtors, developers, appraisers and his own assessment of values. The market value will increase in each district at a minimum by the total RID cost to value of approximately \$111.2 following completion of the improvements. In the case of the Landmark improvements the Thorpe/Amsterdam signal improvements will increase property values in Landmark at an estimated \$9.1 before the signal improvements are installed and to \$9.3 following completion of the scheduled improvements; Diversity of ownership of the Amsterdam Road portion, finds that of the 660 platted and assessable lots, tracts or parcels within the district, 233 lots both developed and undeveloped are held by Valley Meadows, LLC for 36.8 percent of the total, based on numbers and 29.1 percent based on percent of assessable property within the district. Free holders other than Valley Meadows, LLC, own over 70 percent of the assessable area in this portion. Within the River Rock neighborhood there are 536 accessible lots, tracts or parcels of land within the district, and the developer owns 233, totaling 4.56 million square feet of assessable area or 29.1 percent of the total assessable area within the district. Of the 233 platted parcels still owned by the developer, 105 lots totaling approximately 900,030 square feet of assessable area, or 1.1 percent of the total assessable area within the Amsterdam portion of the RID are intended to remain in the ownership of the developer and be rented or leased. The remaining 231 lots or 28 percent of the total assessable area within the Amsterdam portion of the district were created with the intention of sale to individual buyers. There are 303 other platted properties at River Rock owned by other parties, or 21 percent of the total assessable area within this portion of the district, of these 218, or 18.2 percent of the total assessable area within this portion of the district have structures on them, either completely built, occupied or under construction. In another instance High K, LLC, holds 29 lots, tracts or parcels for a total of 4.4 percent of the assessable lots. Additionally, Gary Holmes for 5.3 percent of the total owns 35 lots; tracts or parcels and the remainder are individually owned. Of the 240 potential lots in Landmark (first phase), and 225 future lots to come on line in the next 5 years, 72 are platted as Phase 1, and a total of 15 of the 72, or 21 percent are sold to individuals. Landmark Development Bozeman LLC owns the remainder of the potential 225 lots at Landmark. There are no special assessments due in this district. There are no mortgage backed bonds or levies of record against property in this district. In Landmark there are no delinquencies. As far as the Amsterdam Road portion there are 29 lots, tracts or parcels within this portion of the district, or 3.2 percent of them have shown delinquencies. The delinquencies total approximately \$14,000, and approximately 1/3 is owned by one business. The owner indicated that his company has scheduled to pay their back business taxes by the first part of July. Approximately 9 percent of the total delinquencies are attributed to the River Rock Water and Sewer District. Mr. Kerin's explained that this is a newly created special district that has tax exempt status and apparently the Board of Directors of that district have not completed their filing for the tax exempt status. The public will receive benefit from the improvements in each portion of the district by way of improved and safer access for motorists, commuters and pedestrians and reduced yearly maintenance. Of the 900 existing and potential properties within this district, 83.3 percent have waived their right to protest the creation of these improvements. A total of 100 percent of Landmark participants have waived their right of protest. Commissioner Mitchell questioned the boundaries and why other subdivisions were not included between River Rock and Royal Arabian. Mr. Kerin stated that they had a more expansive area of the district at one time, and it was pared down to those that generally front along the Amsterdam Road corridor to the south that did not have other RID's on them. Gallatin County Road and Bridge Superintendent Lee Provance was in support of using all the impact fees collected in that area for a portion of the RID, adding that it would be about \$700,000. Jason Leep, representing Valley Meadows LLC voiced his support, noting that they are the largest single landowner. He explained that they would be holding a community meeting at the River Rock Community Center for everyone in the district sometime in early June, before the public hearing. Public comment: Gallatin County Treasurer and property owner Anna Rosenberry was concerned why all the benefited properties were not included in this district, and noted problems with maintenance districts once the bonds are paid off. Mr. Kerin replied that there was not a maintenance district attached to this proposal. Mr. Provance added that eventually he would like to see MDT take Amsterdam Road back, although that would be a few years from now, so until then the County intended to maintain the road. Further discussion took place regarding MDT taking over Amsterdam Road once it is improved. Commissioner Murdock explained that they had several meetings contemplating how big to make the district and that it was a judgment call by the Commission, because this was the first time they used the waiver of petition to create a district, therefore they wanted to keep the scope limited to one that would be successful. Because the developer through impact fees and ownership of the assessment would be paying a greater portion, they tried to keep the limit to those who were not already in an RID. Commissioner Vincent added that the statutory requirement for properties within an RID need to show a direct relationship between the value of the property increasing proportionately to the cost paying into the RID for the improvement, and if

the boundaries are expanded to much then somebody could make the case that they were paying more than they would actually benefit. Commissioner Murdock noted that bond council Mae Nan Ellingson consulted them and recommended it as well. Commissioner Mitchell was in agreement with Ms. Rosenberry because of the fact that RID's are to benefit people and all those benefiting were not being included. The Commission was in concurrence with using the impact fees. **Based on Mr. Kerin's testimony, and finding that the revolving fund should secure the rural improvement district; the estimated market value of property in the district is increased by more than the special assessment to the \$108.6 market value of lots in the district; the diversity of ownership of the property is sufficient to met the policy; the special assessments due in the district are acceptable based on the testimony; there are no mortgage backed bonds in the district; the delinquencies in the district are insignificant compared to the market value; the increase in market value would result in these improvements; it is clear that the public will receive benefit as per Mr. Kerin's testimony to the exact amounts that the revolving funds would be secure; and that this rural improvement district is in the public interest and best serves the interest of the county and the district, Commissioner Murdock moved to pledge the revolving fund and secure this rural improvement district, and that they assess an additional 5 percent to secure that revolving fund. Seconded by Commissioner Vincent. Commissioner Mitchell was concerned about the properties that are included and whether or not this meets the requirements to create an RID. None voting nay. Motion carried. Finding this RID serves the public interest and convenience, Commissioner Murdock moved to adopt the Resolution of Intention to create this district, RID-02-381A, located in the Amsterdam Road RID Exhibit "A" and "A1", with the proposed boundaries presented by Mr. Kerin. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Commissioner Murdock reported the public hearing and consideration of a resolution of the Gallatin County Commission amending resolution #2002-01A, changing the location of the public meetings during the year of 2002. Commissioner Murdock explained that this would be changing two previously scheduled hearing locations because of budget hearings. Commissioner Mitchell questioned if these out of town hearings would be rescheduled. It was agreed that they would reschedule those locations. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-01B, amending Resolution #2002-01A. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration for a resolution to amend the District Court Department 1 FY 2002 budget to include unanticipated revenues in the amount of \$1,000. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-057. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on behalf of Gallatin County Clerk of Court Lorraine VanAusdol on the consideration of a resolution of intent to amend the District Court General Fund and the Clerk of District Court General Fund Public Administration account for the purchase of machinery and equipment not to exceed \$6,300. A public hearing is scheduled for May 21, 2002. There was no public comment. **Commissioner Vincent moved to approve Resolution of Intent #2002-058. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Delinquent Tax Collector Arletta Derleth reported on the public hearing and consideration of a resolution setting fees for collecting personal property taxes. Ms. Derleth explained that this amendment was to clarify and reduce the delinquent tax base as well as give added revenue for a minimal cost. Given the budget constraints she believed this would be a positive step and also gives all taxpayers the opportunity to satisfy and resolve their debt without seizure of their property. There was no public comment. **Commissioner Mitchell moved to adopt Resolution #2002-059. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration for a reduction of road impact fees for Allied Engineering Services, Inc., on behalf of Paul F. Cronin for the South Fork Phase 3 Subdivision. Preliminary plat approval was granted on December 18, 2001. The subdivision includes five commercial lots located in the West Fork

Meadows area of Big Sky. Condition #14 of the Commission's Findings of Fact and Order require the subdivider to make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. Section 5.3 of the Gallatin County Road Impact Fee Regulations (Appendix E,) allows the subdivider to prepare and submit to the County an independent fee calculation study for the proposed development prepared by a qualified traffic engineer or economist. Mr. Johnson noted that Gallatin County Road and Bridge Superintendent Lee Provance reviewed the independent fee calculation and found it to be acceptable. If the County Commission determines that the independent road impact fee calculation for the South Fork Phase 3 Subdivision meets the requirements of the Gallatin County Road Impact Fee Regulation, a road impact fee of \$1,125.96 shall be submitted with the final plat application. There was no public comment. **Commissioner Vincent moved to approve the request for a reduction in road impact fees for South Fork Phase 3 Subdivision, noting that the Road and Bridge Superintendent reviewed the independent analysis and found it acceptable. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of two requests for family transfer exemptions (Maxine) & (Sally) for Willis and Norma Daniels, located in the SW ¼ of Section 27, T3S, R4E. Mr. O'Callaghan made clarifications on both staff reports, noting that the address for the exemption for (Sally) was 75 Williams Road and the address for (Maxine) was 16960 Wilson Creek Road. He briefly summarized both proposals, noting that after reviewing the information everything was satisfactory. Norma and Willis Daniel were sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. The applicant's representative Ron Allen clarified that the Daniel's previously had two family transfers, in 1982 and 1994, where both family members still reside. Discussion followed regarding the prior family transfers. There was no public comment. **Commissioner Vincent moved to approve the Daniel family transfer exemption (Sally), finding it meets the criteria for the exemption under the subdivision regulations allowed under the Montana Subdivision and Platting Act. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved to approve the Daniel family transfer exemption (Maxine), finding it meets the allowance for the division under the Montana Statutes. She added that the questions were answered by the Daniel's for both transfers. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of an improvements agreement for Morrison-Maierle, Inc., on behalf of Spanish Peaks North, L.L.C. for the Spanish Peaks Estates Phase 2A Major Subdivision. Preliminary plat approval was granted on August 24, 1999. Mr. Johnson noted that there was an improvements agreement submitted to complete the interior subdivision roads for Phase 2A, and the County Attorney reviewed and approved the contract. Commissioner Murdock questioned if any of the improvements that were being bonded, would be considered a central public health and safety matter. Mr. Johnson confirmed that they were only requesting to complete the paving of the roads, and that the sewer and water were being provided by individual well and septic, so in this case this would not be bonding for essential health and safety infrastructure. There was no public comment. **Commissioner Vincent moved to approve the Improvements Agreement for the Spanish Peaks Estates Phase 2A Major Subdivision, finding that the County Attorney reviewed and approved the documents. Seconded by Commissioner Mitchell, noting that the final plat must be recorded by December 31, 2002. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of final plat approval for Morrison-Maierle, Inc., on behalf of the Spanish Peaks North, L.L.C. for the Spanish Peaks Estates Phase 2A Major Subdivision. Preliminary plat approval was granted on August 24, 1999. Based on Mr. Johnson's review it appeared that the conditions have been met. There was no public comment. **Commissioner Vincent moved to approve final plat approval for the Spanish Peaks Estates Phase 2A Major Subdivision, finding that the Planning Department indicated that all the conditions have been met for final plat approval. Seconded by Commissioner Mitchell. Commissioner Murdock added that the Improvements Agreement does not bond for any essential public health and safety matters. None voting nay. Motion carried.**

Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a request for preliminary plat approval for Potter-Clinton Development for the River Rock Major Subdivision, "The Villas", located in the SW ¼ of Section 3, T1S, R4E, PMM, Gallatin County, Montana; generally located north of Amsterdam Road, west of Thorpe Road, approximately two miles west of Belgrade. The request is proposing the creation of 39 lots on approximately 16 acres. The property is zoned Residential Medium-Density Townhouse. All lots would be served by central water and sewer systems. The property is located in the River Rock Zoning District (formerly the Royal Village Zoning District). Ms. Madgic briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission needs to make the following determination: A determination as to whether to approve the proposed subdivision. The basis for the Commission decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations and River Rock Zoning Regulations. If the County Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant shall obtain approval from the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 3. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, cul-de-sac easement and certificate prior to final plat approval. 4. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 5. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 6. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor. 7. Applicant shall record the following covenants with the final plat: *a) The property owners' association shall be responsible for the control of County-declared noxious weeds. b) Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c) Individual lot access from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations. d) The property owners' association shall be responsible for maintenance of interior subdivision roads. e) All fences bordering agricultural lands shall be maintained by the property owners' association, in accordance with state law. f) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 8. Road names for interior roads shall be approved by the County GIS Office. 9. Encroachment permit(s) shall be obtained from the County GIS Office for any access points coming off of County-maintained roads. Additionally, all internal lots shall be limited to one driveway access. Each access shall be at least 75 feet from the nearest intersecting County Road. 10. A detailed signage and drainage plan shall be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 11. A no-access strip is required along all lot boundaries that border County-maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County GIS Office. 12. All interior roads shall be built to County paved standards, and have a 60-foot right-of-way, dedicated to the public, unless other County road standards apply. 13. A detailed *current* traffic study shall be prepared to identify off-site traffic impacts on the following roads: Thorpe and Amsterdam roads. The study shall identify primary and secondary access roads, as well as collectors and arterials in

the area of impact. Findings from this study may result in the need for additional right-of-way along certain County-maintained roads dedicated to the public. 14. Applicant shall improve Amsterdam Road, the primary access road to the subdivision, to County standards, or a rural improvement district shall be established to accomplish such improvements prior to final plat approval. 15. Applicant shall meet with the County Road Department prior to start of any construction. 16. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996). Such inspection and certification shall be provided to the County Road Department in writing. Final approval shall not be given until this documentation is received. 17. Applicant shall supply a two-year written warranty from the contractor with respect to paving the subdivision roads. This warranty shall be submitted to the County Road Department prior to final approval. Striping shall be included after the paving of any County-maintained roadway. 18. The property owners' association shall be responsible for maintenance of all interior roads. A copy of the property owners' association by-laws is required to be submitted to the County Road Department prior to final approval. 19. The property owners' association shall be required to enter into a joint agreement with the property owners' association of River Rock North Phase 1 and Royal Village for the maintenance of any interconnecting roads. 20. Forty-five feet of Thorpe Road west of the centerline shall be dedicated to the public for the entire length of the development. 21. A waiver of protest for creation of future RIDs shall be required. 22. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 23. All areas of the public right-of-way disturbed during construction activities shall be replaced with new sod or reseeded as appropriate. 24. Applicant shall make payment of fire protection impact fees in accordance with the Subdivision Regulations. 25. Applicant shall designate parkland according to Section 6.G.1 of the Subdivision Regulations prior to final plat and dedicate the land to the property owners' association. 26. All requirements of the Belgrade Rural Fire District shall be met prior to final plat approval. The fire district shall review and approve all fire protection measures prior to final plat approval. A copy of the final plat shall be provided to the Belgrade Rural Fire District. 27. The water main system and fire hydrants servicing all lots shall be installed. 28. The community sewer system, including all sewer mains and sewer service serving all lots shall be installed. 29. Applicant shall submit certified "as-built" plans for all water and sewer installations prior to final plat approval. 30. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Jason Leep representing Valley Meadows LLC stated that they were in agreement with all the conditions. Mr. Leep agreed that it is time to upgrade Amsterdam Road, and that they were very hopeful the Amsterdam RID follows through, although in the off chance it did not become a reality, they were committed to improve Amsterdam Road to some extent. There was no public comment. Commissioner Mitchell questioned if the County standard would meet the criteria of the state highway department standards, in reference to the state taking over Amsterdam Road once the RID improvements were completed. George Durkin, Gallatin County Road and Bridge stated that the state has been involved and has seen the plans, so he believed that they were aware of the improvements. Commissioner Murdock stated that the RID standards, would meet state secondary standards. Ms. Madgic stated that originally up until today all of the preliminary plat conditions with River Rock had a condition stipulating that an MOU be signed with the state for improvements on Amsterdam Road and that still holds. **Commissioner Vincent moved to grant preliminary plat approval for the River Rock Major Subdivision "The Villas", finding that the application meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations, and the River Rock Zoning Regulations. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

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Belgrade City-County Planner Jason Karp reported on the request for approval of an Improvements Agreement and final plat approval for the Milligan Minor Subdivision, a 5 lot minor subdivision on 20 acres, located south of Belgrade on Floss Flats, which is off Jackrabbit Lane. Mr. Karp explained that the developer has demonstrated compliance with all the conditions as required by the preliminary plat approval with the exception of construction of a secondary access, which a bond had been posted with an improvements agreement. The improvements agreement was reviewed and approved by the County Attorney as to legal form, and the amount of the improvements agreement was reviewed and approved by the Road Office. Further discussion was required on this proposal as there was one condition remaining regarding the payment of road impact fees. The County Impact Fee policy requires \$1,596 per lot for road impact fees to be paid prior to final plat approval. The County road impact fee policy has some provisions where a developer may or may not have to pay those impact fees. The subdivision has primary access from Floss Flats and because of the length of the road and the number of lots they are required to construct a secondary access. Mr. Karp explained that the plan was to construct that access across the back out to Frank Road on the east side of Jackrabbit Lane by acquiring right-of-way from other property owners. The questions was is this an off-site improvement that warrants impact fee credits in accordance with Section 11 of the County Road Impact Fee Policy, or is this a road leading to the subdivision therefore, not eligible for impact fee credits? Mr. Karp pointed out several additional lots that would benefit from the road. The applicant Richard Milligan believed that while this was a

requirement of the subdivision, its primary purpose was for access to the subdivision with regard to public health and safety. He questioned the logic of impact fees being waived for county maintained roads. Commissioner Mitchell asked if the applicant had considered an RID. George Durkin on behalf of the Gallatin County Road and Bridge Department believed that the waiver was not warranted because this was a site related improvement, and that the only thing they could have done was ask for a fee reduction. Gallatin County Road and Bridge Superintendent Lee Provance stated that the regulations read that the improvements have to be done within the county major road system. He stated that a waiver was an inaccurate estimation of what the developer was asking for because a waiver is only conditional upon existing use and agricultural covenant, and he added that it did not meet the criteria for a credit. He stated that because they did not front any county maintained roads, they would be eligible for an impact fee reduction if they had the time to do the work. Further discussion took place regarding the criteria for a waiver versus a reduction. Commissioner Murdock questioned if they could do an improvements agreement and bond for impact fees and apply for a reduction later? Gallatin County Planner Jennifer Madgic replied that bonding for impact fees has been done before. Commissioner Murdock commented that Exhibit "A", referred to in the improvements agreement was not attached. Assistant Chief of the Belgrade Rural Fire District Brian Connelley expressed concern that the secondary access was being bonded and the reason for the secondary access was to meet the public health, safety and welfare requirements. Mr. Connelley's concern was once they receive final plat, that buildings could be built and occupied without the access being completed. He requested that they not occupy any structures on this subdivision until the secondary access is completed to gravel standards. Mr. Milligan agreed to comply with Mr. Connelley's request that the road be finished prior to occupancy. He preferred to pay the fees today and pursue a credit afterwards if possible. Mr. Provance quoted Section 12.5, Appendix E of the regulations in regards to issuing a credit after payment. He stated in order to receive a credit it would have to be a mistake or misrepresentation and he did not believe this would apply. Commissioner Murdock stated that it was clear that what the developer was being asked to do did not bear a rational nexus of the impact of this subdivision, particularly to the improvements on Haybine and Frank Road and because others would benefit. He stated that he was very much in favor of a waiver of the impact fees since the developer was making those improvements. Commissioner Mitchell concurred, noting that they needed to follow a logical legal process in order to avoid these types of situations. Gallatin County Planner W. Randall Johnson concurred that they should follow the process, adding that if they did an independent study for a significant fee reduction, that it could be done. Commissioner Murdock noted that if the applicant were willing to wait a week, he would have a good chance for a fee reduction if not a complete waiver. Although he appreciated their efforts, Mr. Milligan reiterated that he preferred to pay the fees and move forward. Ms. Madgic suggested they continue final plat approval until the Commission's office meeting May 15, 2002, which would give them an opportunity to modify the improvements agreement to include the impact fees. This would then give them time to do an independent fee calculation study and submit for consideration a reduction through the Planning Director for approval. It was noted that they would need Exhibit "A", of the Improvements Agreement. The applicant was in agreement to the continuation. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:50 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 21st DAY OF MAY 2002

The meeting was called to order by Chairman Bill Murdock at 9:00 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Glenda Noyes.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

MAY 13-14, 2002

- The Commissioners conducted regular County business.

MAY 15, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell (Commissioner Vincent joined meeting after first item of discussion), Belgrade Planner Jason Karp, County Planner Jennifer Madgic, Assistant Belgrade Fire Chief Bryan Connelly, Secretary Rose Blaskovich, Assistant Glenda Noyes, and guests Richard and Bonnie Milligan, Gray Davidson and Susan MacGrath. The Commissioners continued discussion from the May 7th public meeting regarding the request for approval of an improvements agreement and final plat approval for the Milligan Minor subdivision. Mr. Karp submitted a second letter of credit with 150% of the bonded amount. The improvements agreement has been modified to include the changed amounts, and has Exhibit A attached. The County Attorney has looked over the improvements agreement, and the Road Department has reviewed the amounts of the road impact fees; both are in agreement with the changes. Mr. Karp assured the Commissioners that all conditions have been met. Mr. Connelly stated that the agreement of the Milligan's to not build/occupy until the fire concern is met regarding a second access. He concurred that the fill site works well for this subdivision and the Milligan's noted that they are 50% owners of the fill site. Commissioner Mitchell made a motion to approve the improvements agreement for the Milligan Minor Subdivision. Commissioner Murdock seconded the motion, adding the finding that the Road Department has reviewed the impact fees and the County Attorney has reviewed the improvements agreement. All voted aye. Motion carried with a vote of two to zero. Commissioner Mitchell made a motion to grant final plat approval for the Milligan Minor Subdivision, finding that Belgrade Planner Jason Karp has concurred all conditions have been met. Commissioner Murdock seconded the motion, adding the finding that the Commission finds it appropriate for the Milligans to ask for an impact fee reduction under this method. All voted aye. Motion carried with a vote of two to zero.

The Commission discussed coal bed methane emergency regulations with Planner Jennifer Madgic, Mr. Gray Davidson, and Ms. Susan McGrath. Ms. Madgic reminded the Commissioners of a memo sent to them dated April 26, 2002 requesting the Commissioners create an emergency zoning district in order to allow the County and its residents to address the issue of coal bed methane. Under MCA 76-2-206(a) Interim zoning map or regulation – "...the purpose of the interim zoning map or regulation is to classify and regulate those uses and related matters that constitute the emergency..." The hope is to be able to proceed with a unified 101-zoning district following the end of the emergency regulation period. Under this statute, an interim resolution must be limited to one year, with the option of one additional year added if necessary. In the meantime, the groups and Commission need to consider going to the legislature for clarification on ordinances to this regard, and zoning districts restricting coal bed methane. Also to be considered are amendments to the 201 zoning regulations to make them more like 101 districts.

The Commissioners considered a release of development agreement between the Planning Department and Dennis Balian. Planner Randy Johnson noted that an agreement was put into place with a deposit of \$630 made by Mr. Balian. All of the terms of the agreement have been met, and Mr. Johnson recommended release of the deposit. Commissioner Mitchell made a motion to approve the return of \$630 to Mr. Balian, per Mr. Johnson's recommendation that all terms have been met. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a determination of significance regarding public parks on Valley Center Road for Montana Department of Transportation environmental impact study. Mr. Gray explained that MDT is planning for the widening Valley Center Road and have to do an environmental assessment. In the assessment it was determined that there are four parks that will be impacted by the widening, two in Valley Grove Subdivision, one in Shakira, and one in Wylie Creek. The law requires that the Commissioners determine whether or not the parks are significant. The County owns the use of the parks, though they are dedicated homeowner parks. There are questions regarding what entity would get the funds from the taking, title situations, and whether or not the park assets are significant. Mr. Gray gave explanation of where each park is located. Commissioner Murdock noted that he would like the significance to be determined by the landowners, and asked that the State meet with the Homeowners Associations to determine significance and whether or not the taking meets with the objectives of the Community. Mr. Gray agreed to pass this decision on to the State.

The Commissioners discussed the sale of the A&E property. Mr. Gray explained that there are two ways to sell the property, one of which is to sell at a public auction for no less than the appraised value. In order to do this, an appraisal must be done. Commissioner Mitchell made a motion to approve up to \$3,000 for an appraisal of the A&E property, contingent upon Finance Officer Ed Blackman determining where the funds can be taken from. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of requests for budget transfers from the Facilities Department (2) and Community Corrections. Commissioner Vincent made a motion to approve said

requests. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of three requests for asset disposal from the Weed Department. Commissioner Mitchell made a motion to approve said requests. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of an invoice in the amount of \$6,481.66 for the Belgrade Area Transportation Plan. Commissioner Mitchell made a motion to approve said invoice. Commissioner Vincent seconded the motion. Commissioners Mitchell and Vincent voted aye. Commissioner Murdock voted nay. Motion carried with a vote of two to one.

The Commissioners considered a request from the proponents of the Oak Street site for a new Detention Center to place a sign on the property identifying it as such for the upcoming election. Commissioner Vincent made a motion to deny the request to place signs on the Oak Street property of any effect. Commissioner Mitchell seconded the motion. Commissioners Mitchell and Vincent voted aye. Commissioner Murdock voted nay. Motion carried with a vote of two to one.

- The Commissioners attended a special meeting for the purpose of considering approval of the Gallatin County Cooperative Fire Management Plan. In attendance were Commissioners Murdock, Mitchell and Vincent, Rural Fire Chief Brett Waters, and Diana Martin, DNRC. Commissioner Vincent made a motion to approve said agreement. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

MAY 16-17, 2002

- The Commissioners conducted regular County business.

MAY 20, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Planners Jennifer Koozer and Sean O'Callaghan, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Noyes. The Commissioners discussed the proposed Dagostino family transfer. Mr. O'Callaghan explained that the Dagostino's have 25 acres and wish to split 5 acres for their daughter. The remaining 20 acres has been on the market since December 2000, but the application for the family transfer was not received until December 2001. There is currently a contract pending on the remaining 20 acres. The question is regarding the affected parcels. The County Attorney believes that the applicant is intending to evade subdivision review. State statute leaves it open for whether the applicant benefits by the split. Neighbors on Rocky Mountain Road have expressed concern. This matter will be revisited with the County Attorney at a later time.

The Commissioners considered approval of a budget appropriations transfer from Justice Court. Commissioner Mitchell made a motion to approve said transfer. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of an agreement between Gallatin County and the Logan Spring Ranch for use of water during the construction of a liner at the Logan Landfill. Finance Officer Ed Blackman stated that he will talk to Mr. Underhill, Engineer with HKM Engineering, about inclusion of this agreement into the landfill contract, and road maintenance matters. Commissioner Mitchell made a motion to approve said agreement. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of asset disposal requests for the Rest Home, Motor Pool, Sheriff's Office, and Road Department. Commissioner Vincent made a motion to approve the request for asset disposal submitted by the Rest Home. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to approve the request for asset disposal for a trade-in, submitted by the Motor Pool. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously. Commissioner Vincent made a motion to approve the request for asset disposal submitted by the Rest Sheriff's Office. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to approve the request for asset disposal submitted by the Road Department. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a change order for Phase III, IV remodel construction for the moving of ductwork that was not originally anticipated. Commissioner Murdock made a motion to approve said change order in the amount of \$2,744. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a request from the Planning Department for additional funding to cover floodplain consulting. Commissioner Mitchell made a motion to approve up to \$5,000 extra funding for floodplain administration in the Planning Department for the remainder of FY 2002, to be placed into contracted services. Commissioner Vincent seconded the motion. In discussion it was noted that the Planning Department and Finance Officer should revisit contingency and replacement of funds

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from the General Fund from the fee revenue placed into the General Fund from the Planning Department. All voted aye. Motion carried unanimously.

MAY 21, 2002

- The Commissioners conducted regular County business.

MAY 22, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, GIS Coordinator Allen Armstrong, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Noyes. The Commissioners considered approval of a contract for zoning map preparations with DTM consulting. Commissioner Mitchell made a motion to approve said contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of claims listed on the voucher list dated May 20, 2002. Commissioner Mitchell made a motion to approve claims numbered 8010711-8010755, totaling \$26,479.98. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

MAY 23-24, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated May 16, 2002 in the amount of \$335,201.49.
2. Approval of Minutes for November 27, 2001 and December 4, 2001.
3. Application for Cancellation of Taxes - \$322.82.
4. Consideration of Contract(s): Airport Law Enforcement Agreement with Gallatin County Sheriff's Office; and Gallatin County Justice Court Agreement with Community Mediation Center.
5. Request for Common Boundary Relocation Exemption for Willard and Beverly Rehm, Kelly and Cynthia S. Barbao, Mary McCarey, Craig Campbell, and Margaret Babits located in Section 19, T1N, R4E (Frontage Road, 14000 Block, Manhattan, Montana). Manhattan Planning Consultant Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Common Boundary Relocation Exemption for Thomas and Trina Kallenbach and David and Constance Evans located in the E ½ of Section 13, T2S, R7E (420 and 1000 Smokey Hollow Road, Bozeman). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Common Boundary Relocation Exemption for James M. and Irene L. Loessberg and Stuart D. and Alayne S. Weber located in the SE ¼ of Section 35, T2N, R5E (Gee Norman Road, Belgrade). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
8. Request for Final Plat Approval for the River Rock Major Subdivision, Amended Plat of Phase 3A. Preliminary plat approval was granted on February 26, 2002. Gallatin County Planner Jennifer Madgic states that the conditions for final plat approval have been met.

Commissioner Mitchell read the consent agenda, including claims numbered 8010365-8010709 in the amount of \$335,201.49. **Commissioner Vincent moved to approve the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Murdock stated that the appointment of members to the Historic Preservation Board would be continued until the public meeting on June 4, 2002.

Fiscal Officer Ed Blackman reported on the consideration of a resolution to amend the District Court General Fund and the Clerk of District Court general fund public administration account for the purchase of machinery and equipment not to exceed \$6,300.00. The resolution increases the general

fund public administrator's budget and Clerk of District Court's funding budget for the purchase of equipment. These are unanticipated monies that the Clerk of District Court has identified and has requested to be able to expend in the current fiscal year's budget so that she can finish with furniture replacement, the Public Administrator's office, and some areas in the capital outlay area in her budget. **Commissioner Vincent made a motion to approve Resolution 2002-60, amending the District Court general fund and the Clerk of District Court general fund public administration account for the purchase of machinery and equipment not to exceed \$6,300.00. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.**

Grants Administrator Larry Watson reported on the consideration of a resolution to amend the Gallatin County operating budget to include unanticipated revenue for the DUI Task Force. The resolution of intent was heard on May 7. This amendment is a result of a grant received by the task force that is received annually from the Montana Department of Transportation for Public Safety. Usually this grant is used to purchase videos or television advertising or other novelties used to promote the program. The grant is in the amount of \$9614.00 and has increased the county FY 2002 budget by that amount. **Commissioner Mitchell moved to approve Resolution 2002-61, to amend the Gallatin County operating budget to include unanticipated revenue for the DUI Task Force. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.**

Grants Administrator Larry Watson reported on the consideration of a resolution to amend an increase to the Gallatin County operating budget to include unanticipated revenue for the District Court budget for the Guardian Ad Litem Program. This item was not noticed on the agenda, but it was noted in the minutes of the meeting on May 7 that this item would be heard, and the Clerk and Recorder and County Attorney confirmed that this would be acceptable under the "pending resolutions" category. These funds are from the United Way, and the County must act as a pass through of the funds from the United Way to the Guardian Ad Litem Program. **Commissioner Vincent moved to approve Resolution 2002-62, to increase the Gallatin County operating budget to include unanticipated revenue for the District Court budget for the Guardian Ad Litem Program. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.**

Grants Administrator Larry Watson reported on the consideration of approval for the Universal Hiring Program grant application for the Sheriff's Office. The Sheriff's Office is asking the Commission to sponsor an application on their behalf to the United States Department of Justice Community Oriented Policing Services Program. The Sheriff would utilize this program in matching the salaries required for him to fulfill a contractual relationship with the Gallatin Field. The declining match program works for three years 70/30, 50/50 and 61/39. Total matching, Gallatin County will pay \$142,954.00 per person on salaries and other needs. The Sheriff is asking for 4 positions. Sheriff Cashell spoke to the Commission, explaining that currently the Sheriff's Office is in immediate need of 6 additional Deputy Sheriff's, and in need of 11 additional for full staffing. Last year there was no universal hiring program due to lack of funding. Recently the department was notified by the Federal government that the COPS program was going to be funded again and that there were monies available in order to add additional deputies to law enforcement agencies. It is now known as the Universal Hiring Program and is under the Community Oriented Policing branch of the Department of Justice. In the Sheriff's budget they have requested funding for two additional deputy Sheriff's. According to the fiscal officer, the funding can be used in order to provide the County's portion of the match in order to make this four deputies. At a fifty/fifty match for each of three years, it is a more efficient way of doing this rather than rely on a 25, 50 and 75% match split. Commissioner Murdock asked for confirmation that this is completely separate from the airport law enforcement agreement that was just approved in the consent agenda. Sheriff Cashell confirmed this to be the case. While the funding of these positions is contingent on the budget process and approval, there is a May 24th priority date deadline for the application for these funds. Commissioner Mitchell stated that she clearly recalls discussions about adding officers and a meeting about increasing the public mill levy and putting it to a vote. At that time the Commission asked for a long-range plan and a phasing plan for adding officers as well as a justification for the need of these officers. Commissioner Mitchell stated that since she doesn't see this information, and the application is asking the County to come up with \$271,815, she asked if the Sheriff has the plan worked out, if there are statistics to back it up, and how the Sheriff plans to come up with that amount of money. Sheriff Cashell answered Commissioner Mitchell's concerns, stating that they are working on developing a five-year plan as far as staffing and needs, and they have completed a three-year staffing analysis, which is not attached to the grant because it is not required for the application. The three-year staffing analysis indicates that they need about 11 people in the patrol function at this point in time. This is the first step in developing the plan. The Sheriff explained that it is his intention to ask for six

additional deputies the same as last year. When the airport contacted him about hiring deputies he saw this as three deputies that Gallatin County taxpayers don't have to pay for, they are paid for by another entity. When the Universal Hiring Program came along and the Grants office notified the Sheriff that the program was there, they sat down with the fiscal officer and the grants administrator to try and figure out how to make it all work. Instead of having to ask the taxpayers for six deputies from county tax funds, they are now able to ask for two while actually getting four deputies. With Federal funding they can then put seven people to work. The plan is to complete a five-year program when they have time to do so. Commissioner Mitchell stated that the request was made a year ago, and that the numbers used in the three-year analysis were based on the population and needs of Los Angeles. Gallatin County has its own culture, needs, and issues. Commissioner Mitchell has been waiting to see the long-range plan based on the number of calls, where they are located, etc., before she is willing to put more money into the system. She stated that she is not inclined to spend money on officers when there are no statistics to justify paying for, based on our needs here. Sheriff Cashell stated that his plan is not developed on the number of calls, but on a staffing analysis. This identifies how many people are necessary to affectively function, how many people it takes to man those posts, and how many hours a day each of those posts has to be manned. In order to maintain a shift that provides for four deputies on each shift and a supervisor, it takes 11 additional staff people. The number of calls and types of calls vary all of the time. Sheriff Cashell explained that they are trying not to add staffing based on whether crime is up or down. This has very little affect on how many people it takes to take care of the issues that arise. They need to have a deputy available to respond to a primary call, one to respond to the next call, and people to back them up. Most calls require two respondents, and it is necessary to have supervision of these people when they are in the field and to make the difficult and greater decisions. A basic framework needs to be established to provide basic service – enough staff on duty at any one time so that someone can respond, someone can back them up, someone available for the next call. The type of calls affects how they will handle the call, but not how many people are needed to handle the calls. Commissioner Mitchell stated that basic staffing is always a need, but it still has to be tied to what Gallatin County is and what we need, our area land mass, our roads, and the accessibility to where people live, etc. Commissioner Murdock asked if the \$271,815 was distributed over four years, and the Sheriff confirmed this to be true. Commissioner Murdock also asked if the three airport deputies would be available for emergency calls, and the Sheriff stated that they would make someone available for this purpose. Commissioner Murdock stated that in the worst-case scenario, at the end of the twenty-month contract with the three airport deputies, the Federal government decides that they are going to do their own security and we are out of three jobs. The Sheriff confirmed that this is the worst-case scenario, and that the UHP deputies must be funded through at least one budget cycle at the end of three years. Fiscal Officer Ed Blackman stated that this application strictly covers salaries and benefits, there will be an additional cost associated with these deputies for vehicles and those types of expenses. These expenses are not reimbursed by the Feds. If you decide during the budget process or at the time that the grant is actually ordered, that you can only do two or three deputies, you still have that prerogative. This is just the request to the Federal government so that there are adequate funds, but it can be amended at any time up until the time that you accept the grant. Commissioner Mitchell asked that it be confirmed that the cars, uniforms, training, guns, etc., are not provided for in the application. Mr. Blackman confirmed as such, explaining that the Federal Government has said that they will reimburse for the officers only, not associated expenses. He also explained that the contract with the airport officers includes the funding for everything; replacement of vehicles, equipment, etc. The only thing not included is the primary vehicle which is a cost of approximately \$25,000 for the first year and 5-7 thousand dollars each year after for maintenance and depreciation. Also, an additional cost of \$15,000 for things such as gasoline, oil changes, etc., for a total of \$25,000 per year/per officer needs to be recognized. Commissioner Murdock stated that the Commission and Fiscal Officer will have to iron out the budget particulars between now and the budget adoption, but the proposal on the table today is only to toss the County's hat in the ring for consideration of the grant. **Commissioner Vincent moved approval of the grant application for the Universal Hiring Program for the Sheriff's Office. Commissioner Mitchell seconded the motion. In discussion, Commissioner Mitchell stated that she would not support this application as she does not know where the County will come up with the half of a million dollars as match and this doesn't cover all of the immediate associated costs. She stated that she still wants to see a long-range plan based on Gallatin County needs for adding officers, and that the County cannot afford this at this time without justification. Commissioner Vincent stated that in his opinion the County cannot afford not to do this. At this time, all he needs to know is that this is a key public safety issue and at times there are no deputies on patrol in Gallatin County, at least in the lower valley. Visibility is deterrence and it can be argued that really all that needs to be known is that this situation exists, that there is no protection outside of the City limits in Gallatin County, and this is unacceptable. It is a matter of whether our citizens are safe or whether we are going to put them at risk. Adjustments can be made on down the line if necessary, but if the Commission takes advantage of all four officers it will amount to \$67,000 a year, the taxpayers will pay for it, but most taxpayers are willing to pay extra for**

adequate police protection. Commissioner Vincent also stated that at \$67,000, what is a life worth? Sooner or later it will boil down to this and a life will be lost at the cost of a lack of enough law enforcement. He stated that he enthusiastically supports this application and will do anything he can to bring as many deputies on board. He also noted that the five-year plan should be done and is in the works. Commissioner Murdock stated that he agrees with Commissioner Vincent's comments and applauds the Sheriff for coming up with close to 50% of the funding to get these deputies. The Commission has contemplated putting up to six new deputies on the payroll all on the county taxpayer's dime, so this is a way to fund them at half the cost for at least four years. He noted that this is a chain of service, with the upgrades to 911, there also needs to be someone available to respond to those calls. Commissioner Mitchell stated that part of the long-range plan that includes many more creative approaches that other Counties are doing, includes using reserve officers, looking at transportation issues, etc., that would allow the fulltime officers to be on duty while the other duties are taken care of in other more efficient ways. She stated that she would rather alternative methods be looked at before throwing taxpayers dollars at the situation; also noting that she would like to see some creativity and looking outside of the box. Commissioners Murdock and Vincent voted in favor of the motion. Commissioner Mitchell voted nay. Motion carried with a vote of two to zero.

Treasurer Anna Rosenberry, Chairperson for the County Finance Committee, reported on the consideration of a resolution increasing Gallatin County's reportable minimum capital outlay amount from \$1,000 to \$5,000 per item for fiscal year ending June 30, 2002. Gallatin County currently has a reportable minimum capital outlay amount of \$1,000 and a three-year useful life per item. The Finance Committee has reviewed this issue and recommended changing the reportable minimum capital outlay amount to \$5,000 and a three-year useful life per item for FY 2002 in order to more effectively implement GASBE Statement #34, which requires local governments to do extensive reporting and depreciation of their capital assets in our annual financial statement. The Finance Committee met on May 3 and unanimously recommended approval by the Commission. Commissioner Mitchell asked for an explanation of the kinds of items this would affect. Ms. Rosenberry explained that it includes any item that has a useful life of three years or more, and under our current system costs \$1,000 or more. Those parameters result in a huge list of items being classified as capital assets at the County. GASBE Statement #34 requires that we include that information and calculate depreciation on all of those amounts and include it in our annual financial statement. In order to pare down the list and make it something manageable for the County and something relevant to the users of our financial statement, we would like to see that dollar value increased to \$5,000 so that we have a shorter, more meaningful list to report on and look at. These items are anything that costs a \$1,000 and has a useful life of three years or more – any item, and it can include copiers, computers, furniture, any purchase that meets that useful life and dollar value. **Commissioner Vincent moved to adopt Resolution 2002-63 increasing Gallatin County's reportable minimum capital outlay amount from \$1,000 to \$5,000 per item for the fiscal year ending June 30, 2002. Commissioner Mitchell seconded the motion. In discussion Commissioner Murdock stated that this action would save a lot of time for a lot of people that are involved with this type of process. All voted aye. Motion carried unanimously.**

Commissioner Mitchell read the first reading of the speed reduction ordinance, 2002-03, for the roads in Outlaw Country South Subdivision. It was noted that the second reading of this proposed ordinance would be held on June 4, 2002 at the Bozeman City Commission meeting room. **Commissioner Mitchell moved to approve the first reading of Ordinance 2002-03, a speed reduction ordinance for the roads in Outlaw Country South Subdivision. Commissioner Vincent seconded the motion. All voted aye. Motion carried.**

County Planner Sean O'Callaghan reported on the consideration of a request for a family transfer exemption for Dagostino. Attorney Susan Swimley called the applicant, Anita Dagostino, and she joined the meeting via speakerphone. Ms. Dagostino submitted an application for a family transfer exemption and the Commission must determine whether this is a proper use of the exemption. The property is located on Rocky Mountain Road, north of Bozeman. If granted, one additional tract of land will be created to be transferred to her daughter, Lauren Suster. Ms. Suster's tract will be a five-acre tract and the remainder will be 20 acres. Tract one, the remainder is currently under contract to be sold, and Ms. Suster will retain tract two. Tract one was listed for sale on December 26, 2000, and the application for the family transfer exemption was not received in the Planning Department until December 6, 2001. Mr. O'Callaghan summarized the staff report, explaining that it includes an aerial photo, a statement by the County Attorney, a history of exempt divisions of land related to the proposed Dagostino/Kruse relocation of common boundaries – noting that this piece of property has been affected

by several exemptions, a timeline of the transfer events, an affidavit from Ms. Dagostino stating that she intends to create a tract as a gift for her daughter, and a declaration of protective covenants and restrictions for tracts one and two of COS 632. Mr. O'Callaghan stated that typically in a family transfer exemption we have a tract of land that is being created to be transferred and a remainder. Rich Wettle, Department of Commerce in Helena informed Mr. O'Callaghan that the remainder is a tract of land that is not being created for sale, rent or lease. Also, 76-3-2-7 (1)(b), MCA, is the exemption that is being used for the family transfer and accounts for the five acre parcel of land. However, in this instance we have two tracts of land that are being transferred. There is no exemption that covers both of these transactions or transfers of land, especially when one is not being transferred to a family member. County Attorney Marty Lambert asked that Ms. Ilene Ozens, Notary of Public for State of Ohio, (expiring January 21, 2007), to swear in Ms. Dagostino as a witness in the matter of this family transfer exemption. Ms. Dagostino took the oath. Mr. Lambert asked if Ms. Dagostino or any of her immediate family members are real estate professionals, developers, builders, or have other association with the real estate industry. Ms. Dagostino stated that she is not, nor is her family. Mr. Lambert asked Ms. Dagostino if she has made prior subdivision exemption claims on any property in Gallatin County. Ms. Dagostino stated that she doesn't think that she has, and explained that when she purchased the property it was 56 acres and 20 of the acres were already platted off. Mr. Lambert asked if any of her family members have been involved in seeking subdivision exemptions for this parcel. Ms. Dagostino stated no. Mr. Lambert asked if there is not quite a history of exemption requests from Ms. Dagostino's family and the Kruse family with regards to these properties. Ms. Dagostino stated that no one in her family has, and explained that Mr. Kruse became a neighbor when he purchased the 20-acre parcel that was a part of the original 56 acres that she had purchased. Mr. Lambert stated that he wanted to ask her about the history of the parcel and adjoining parcels and whether or not Ms. Dagostino was aware of these situations. Mr. Lambert noted the realignment of common boundaries in 1987, Ms. Dagostino stated that she did not and was not involved with anything until 1993. Mr. Lambert asked about a realignment of common boundaries in 1998, and Ms. Dagostino stated that when she sold the 20 acres, she realigned the property so that the house that would be built on it would not be directly behind her house. Mr. Lambert suggested that this answer may change the original answer to his question regarding any prior subdivision exemptions on the parcel, and Ms. Dagostino said yes. Mr. Lambert inquired about a request for a realignment of common boundary in May of 2001 between Ms. Dagostino and Mr. Kruse. Ms. Dagostino stated that she did make this request. Mr. Lambert again asked if this would change her answer to the first question. Ms. Dagostino said that she guessed it would, however she thought it was just a realignment of property, not an exemption. Mr. Lambert asked if she were to understand that the two realignment of common boundary requests and the current family transfer were all considered exemption requests, would she then agree that this is her third exemption request in the last four years regarding this piece of property. Ms. Dagostino stated that she would if this is the case. Mr. Lambert asked Ms. Dagostino if her primary residence is located on this parcel and she replied that it is not at this time. Mr. Lambert asked Ms. Dagostino where she resides and she stated that she lives in Chesterland, OH since July of 2001. Mr. Lambert asked her if she owns more than one parcel in Gallatin County and she stated no, she only owns the parcel on Rocky Mountain Road. Mr. Lambert asked Ms. Dagostino why she is proposing this division of land. Ms. Dagostino explained that she wants it for her daughter. She also noted that she came to Ohio due to necessity, not because she wanted to. Mr. Lambert asked about the history of the 25-acre tract, particularly when and why it was listed for sale. Ms. Dagostino stated that she first listed the property for sale of 20 acres with the house. Mr. Lambert again asked if were not true that the first listing was for the full 25 acres, and Ms. Dagostino stated that this was not the case to her knowledge. Mr. Lambert asked if it would have been listed as 25 acres without her knowledge; Ms. Dagostino replied that she was sure all of her papers stated that the sale was for 20 acres. Mr. Lambert asked Ms. Dagostino when she made the decision to split off the five acres from the 25 acres and she responded that she had talked about it prior, but didn't know there was such thing as a family transfer until 1998. Mr. Lambert asked if she did not make that decision to split the 5 acres off until after the 25 acres was put up for sale. Ms. Dagostino stated that this was not the case; she didn't know there was such a thing as a family transfer until 1998, but didn't discuss doing a transfer until she discussed it with Mr. Ray Center in the spring of 2000. Mr. Lambert stated that she didn't ask Mr. Center to survey the property until after she had placed it for sale. Ms. Dagostino replied that this was not true, Mr. Center may have done the survey after the parcel was put up for sale, but they discussed doing the transfer prior to the listing. Mr. Lambert asked Ms. Dagostino if she could recall filling out a five page application for subdivision exemption and she asked if it was for the 5 acres, and when confirmed stated that she vaguely remembered doing so. Mr. Lambert asked if she recalled swearing to the truth of the contents of the document, and she stated that she had a lot of things notarized and has done everything truthfully. Mr. Lambert stated that on page three of that exemption request, Ms. Dagostino indicated that she intended for tract one to remain as her primary residence. Ms. Dagostino stated that at the time she filled out the application she did intend to keep it as her primary residence. Mr. Lambert asked if the record showing that she intended to sell that property since December of 2000 was in error. Ms. Dagostino explained that the 20 acres went on sale on December

26, 200, but that she had initially talked about doing the transfer prior to placing it for sale. Mr. Lambert asked if she owned the parcel free and clear and she stated that she did, but has since had to place a mortgage on it in order to purchase a home in Ohio. Mr. Lambert asked if she intended to pay that mortgage off with the proceeds from the sale of the 20-acre tract and she stated that she did. Mr. Lambert asked if she is delinquent in payments on the property and she stated that she isn't now, nor has been. Mr. Lambert asked if she has previously expressed an interest in subdividing the property. Ms. Dagastino stated that she first heard about the family transfer exemption in 1998. Mr. Lambert asked her why she didn't pursue it then and she stated that just never got around to it, and she had thought she'd be there forever. Mr. Lambert asked Ms. Dagastino if she has a buyer for the 20-acre tract and she confirmed that she does, Brian McDaniels, with a closing set for May 23rd. Mr. Lambert asked if Mr. McDaniels is aware that the 20-acre tract hadn't been officially created yet and can only be done by action of the County Commission, and Ms. Dagastino stated that he is and is willing to buy all 25 if she is not granted the exemption. Mr. Lambert asked if there is any restrictive covenant for both tracts and Ms. Dagastino explained that she has spoken with Mr. McDaniels and he is fine with the proposed covenants, as well as her daughter and son in law are fine with them as well. Mr. Lambert asked who's idea it was to place the restrictive covenants on the properties and whether or not the covenants applied to the land when it was originally put up for sale. Ms. Dagastino stated that they were her idea and that they were not originally on the property. Mr. Lambert asked when the idea of the covenants first came up, and she stated she thought if she were able to let the Commission know that she had no grand plans to do anything with the land, that perhaps it would help them to understand this if the covenants were placed on the property. Ms. Dagastino explained that she must sell the house and her heart's desire, as well as her daughter's is to retain five acres, however if she cannot do that she must still sell the house. Mr. Ray Center, Rocky Mountain Engineers, spoke on behalf of Ms. Dagastino and explained that the previous exemptions in the area have included an aggregation of lots, an occasional sale for Kruse, and the two boundary realignments. All of these have been done in accordance with standard procedure, nothing wrongful, and they shouldn't have an affect on this application. Mr. Center also explained that an application was prepared in early 2001 and because it is a slow process, the application changed and a new one had to be drafted and signed. On the submitted application under "intentions of disposition" it states that tract one will be retained or sold, and no misrepresentation took place regarding Ms. Dagastino's intention for the property. Mr. Center gave a brief history of the process that led to the family transfer application. He explained that the first billable time on this matter was in August 2000. At that time he did not understand there to be an urgency to get the application through the process, and since he was busy, this particular item was put on hold. In January 2001 Ms. Dagastino called, explained her situation, and at that time became aware of the boundary realignment that she and the Kruse's were interested in doing. In determining which process to do first, the alignment or the transfer, Mr. Center suggested that the realignment take place first. The next steps didn't take place in a prompt fashion, though this was not intentional, just a result of busy schedules. Mr. Center took responsibility for the timing of the matter. Commissioner Murdock asked Mr. Center if he disputed any of the facts outlined in the time line, history, and listing of the tract for sale and Mr. Center stated that he did not. Mr. Lambert asked Mr. Center if it were Ms. Dagastino's decision to place the property for sale and Mr. Center stated that it was, but that she did so when she learned that she had to move back to Ohio. He also stated that if she knew then what had transpired since, she would have done things differently. Mr. Lambert asked Mr. Center if he is aware that the history of the tract is one thing taken in account for when determining if the purpose of the application is for subdivision review evasion. Mr. Center stated that he is. Attorney Susan Swimley stated that she would like to ask Ms. Dagastino some pertinent questions, and began by asking her to explain why she wanted to give the property to her daughter. Ms. Dagastino explained that it was very hard to leave Montana, and she wanted to leave it for her daughter to have a piece of Montana. Ms. Swimley asked Ms. Dagastino what her duty and necessity was that required she move to Ohio. Ms. Dagastino explained she needed to move to Ohio to live near her failing 86 year old mother. Ms. Swimley stated that the red flag raised for the Commission is that the 20-acre tract was put up for sale before it was created, and asked Ms. Dagastino to explain this order. Ms. Dagastino explained that she wasn't going to put the house up for sale until spring, but the realtor wanted to do it sooner. She also explained that in 1993 her husband died and that it had always been their dream to own land in Montana. She fulfilled part of that dream when she purchased the 56 acres, and hoped that her daughter would one day be able to live there next to her also. Her son in law was not able to make the move early on, but they love the area and vacationed there often. Ms. Dagastino's explained that her son-in-law's job is partially computer driven and it may be possible for them to move the business and live in Montana in the future. She stated that she is appreciative of Gallatin County and the Commissioners, and noted that she saw Jackson Hole before and after it was developed, it brought her to tears and she wouldn't want that to happen in Gallatin County. However, her heart's desire is to give her daughter a piece of the property so that she may enjoy Montana in the future. Ms. Swimley also stated that the Commission is to look at the application in front of them and determine whether it is an appropriate use of splitting of a parcel to transfer to a family. She stated that there are red flags and that the questions need to be asked, but in the

end it is the Commissions' decision whether this is an evasion or an appropriate use of the exemption. Peter Warner, neighbor, read a letter prepared by nearby landowners into the record. The letter stated that as adjacent landowners, they share serious concerns over the validity and appropriateness of the proposed 5 and 20-acre lots that this transfer would create. He noted three primary areas of concern: The exemption fails to meet the spirit of the law in creating a residual parcel that would be purchased by a non-family member. The subject property lies within a conservation area, and the proposed exemption would create a lot size that would otherwise be denied. Due process has been circumvented, as exemptions have been used to change the nature of the area without the benefit of minor subdivision review process or public hearing or comment. The letter asked for careful consideration of the application. Also speaking were Dave Lambrecht, Lalla Chadwick, and Gary Cargill. These individuals noted that they are concerned about the spirit of the law; leap frog development, inconsistent lot size for the area, and something contrary to the character of the area. Ms. Dagastino stated that she is disappointed with the comments made by the neighbors, and noted that both Mr. Lambrecht and Mr. Cargill are living on parcels that were previously owned by someone else and as a result of a division of property, their parcels were created. Commissioner Murdock closed public comment. Commissioner Mitchell stated that it is difficult to watch neighbors and former residents disagree in these types of situations. However the Commission has to abide by the law. The intent of the family transfers is for farmers and ranchers to give their children a piece of their property, to keep it in the family. This exemption has been abused so many times, and it is difficult to grant approval when the piece of property has been put up for sale prior to the application being submitted, this doesn't appear to abide by the law and the intent of it. She stated that she could not support this application based on the letter of the law. Commissioner Vincent stated that he agrees with the comments made by Commissioner Mitchell, this is difficult because everyone has been kind and well intentioned. However, ultimately we have to do the best we can in determining what the law allows us to do, and what we are precluded from doing. Commissioner Vincent stated that he does not think that this application meets the criteria set forth in 76-3-201-210, MCA, though he sympathizes with Ms. Dagastino wanting to allow her daughter the opportunity to maintain a piece of Montana. Based on state statute, the County Attorney's opinion, and page four of the staff report, Commissioner Vincent stated that he would vote to deny the application. Commissioner Murdock stated that the application boils down to the stated intention; to sell the parcel before the family transfer exemption was requested. Commissioner Murdock stated that he doesn't want to deny it and his heart goes the other way, however, this exemption, as it was pursued, appears to be an evasion of subdivision review. **Commissioner Mitchell moved to deny the Dagastino Family Transfer based on the discussion previously noted and the facts as presented by staff. Commissioner Vincent asked that the motion add finding that the County Attorney's statement on page four of the staff report and state statute 76-3-201-210, Commissioner Mitchell amended her motion as such. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.**

Interim Planning Director Randy Johnson reported on consideration of an improvements agreement for the Big Sky Town Center Phase I Major Subdivision. He explained that this is a requirement for final plat approval, and the agreement includes infrastructure improvements. The applicant has also made application for final plat approval and requested a condition be added for the installation of roads and road name signs specifically conditions of final plat approval number 10 and 13, be completed under an improvements agreement with Gallatin County. The County Attorney's office has reviewed and approved the improvements agreement. In order for the applicant to receive final plat approval for the subdivision the County Commission must approve the agreement. **Commissioner Mitchell moved to approve the improvements agreement for the Big Sky Town Center Phase I Major Subdivision, finding that the County Attorney has reviewed and recommended approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.**

Interim Planning Director Randy Johnson asked that the consideration of request for final plat approval for the Big Sky Town Center Phase I Major Subdivision be continued for two weeks so that facts, figures, and the legal description can be updated. Attorney Bill Madden, representative for the Developer, agreed to a two-week continuation.

County Planner Lanette Windemaker reported on the consideration of a request from R. Dale Beland on behalf of FW Investments, LLC for preliminary plat approval for the Calico Industrial Park Major Subdivision, described as Tracts 33 and 34 of Dependent Survey No. 19, located in the Northeast One-Quarter (NE1/4) of Section 18, Township 2 South (T2S), Range 5 East (R5E), PMM, Gallatin County, Montana. This application is for a 12 lot major subdivision on approximately 20 acres, southwest of the

intersection at Lynx Lane and Calico Drive. This is a commercial and industrial development, and there are no variances requested from subdivision regulations. There are currently 8 buildings on the property, and that would be 8 of the lots, and a remaining 4 undeveloped lots on the property. This area is located in the Bozeman Area Master Plan update and has a land use classification of rural residential, areas outside of the urban growth area which are encouraged to remain undeveloped and in agricultural production. The topography of the area is fairly flat, but falls off towards the southwest when it goes down toward the Robinson ditch and further at Hyalite Creek (Middle Creek). A flood hazard evaluation has been prepared and reviewed by the Floodplain consultant. Adjacent land uses around this property are mostly industrial or agriculture uses. The lots will be served by individual, on-site water and sewer systems. This property is within the Rae Water and Fire districts, and they have responded with a fire protection packet. The Road and Bridge Department has asked for a no access strip along those lots that back up to Lynx Lane, and asked that all interior roads be paved to county standards. Lynx Lane will be extended with paving to the south side of the property and Calico Drive will be paved to the west side of the property. The covenants on the lots indicate that the lots on this property will be used for non-residential purposes, and thus no park dedication requirement. Ms. Windemaker summarized the staff report that contained criteria for the Commission to evaluate and staff findings for considering the subdivision along with the suggested conditions. Ms. Windemaker noted that this appears to be an appropriate use of the land in this area as it is similar to other existing land uses in the area, and no amendment is required to accommodate land use of facility changes in connection with this area. The Planning Board held a public hearing on this on April 23 and recommended approval subject to some amended conditions. The Commission needs to make the following determination as to whether the preliminary plat, environmental assessment, public hearing and additional information demonstrates that the plan meets the requirements of the Montana Subdivision and Platting Act, the 1990 Bozeman Area Master Plan and the Gallatin County Subdivision Regulations. If the Commission approves the subdivision, the following conditions for final plat approval are suggested:

1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates.
2. Applicant shall obtain approval from the Department of Environmental Quality prior to final plat approval. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicant shall obtain the Gallatin County Health Officer's approval.
3. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval:
 - a. Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana.
 - b. Bylaws controlling the operation of the property owners' association.
 - c. Restrictive deed transferring title of all common open space parcels within the subdivision to the property owners' association.
 - d. Certificate of a licensed title abstractor.
4. Two copies of the restrictive and protective covenants encumbering the real property contained within the subdivision shall be submitted to the Gallatin County Planning Department at least 30 days prior to scheduling a hearing for final plat approval.
5. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district.
6. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.*
7. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor.
8. A property owners' association shall be formed and incorporated for the maintenance of all interior roads and the open space tract. A copy of the property owners' by-laws shall be submitted to the County Road Department prior to final plat approval.
9. Applicant shall submit covenants to the Planning Department for review and approval prior to final plat approval.
10. The applicant shall record the following covenants with the final plat:
 - a) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.*
 - b) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.*
 - c) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that*

standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. d) All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. e) Individual lot access from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations. f) The property owners' association shall be responsible for maintenance of interior subdivision roads and the open space tract. g) All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3 and the National Fire Protection Codes. h) No residential use shall be allowed on any lot. i) No building shall be allowed on the open space tract. j) Lot owners acknowledge the presence of an active ditch, **creek** and potentially high groundwater. Lot owners recognize that flooding and high groundwater are possible and accept responsibility for the location of structures and improvements. k) Lot owners shall not interfere with agricultural water user facilities nor remove water without deeded water rights approved by the Montana Department of Natural Resources and Conservation. l) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.

11. The 100-year floodplain for Hyalite Creek shall be delineated on the final plat. The 100-year floodplain plus an additional two (2) feet vertical rise above base flood elevation shall be a designated a "no-build" zone to be appropriately marked on the final plat. 12. Applicant shall obtain written confirmation from the ditch owners, stating that the proposed road work, development, and maintenance easements will not create adverse impacts on the operation and maintenance of the ditch within the subdivision. 13. All road names for interior roads shall be approved by the County GIS Department. 14. A detailed signage and drainage plan shall be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP signs at all intersections with County-maintained roads. STOP signs and other regulatory or warning may also be needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 15. A pre-construction meeting shall be set with the County Road Department prior to the start of any construction. 16. All roadwork will need to be built to Montana Public Works Standard Specifications (Fourth Edition, 1996), inspected and certified by a licensed engineer. Such inspection and certification must be provided to the County Road Department in writing. Final approval will not be given until this documentation is received. 17. A "no access" strip is required along all lot boundaries that border Lynx Lane. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County road-office **GIS Department**. 18. Driveway access shall be at least seventy-five (75) feet from the nearest road intersection. 19. A second public access constructed to County standards shall be provided. 20. ~~Forty-five (45)~~ **Thirty (30)** feet of Lynx Lane west of centerline shall be dedicated to the public for the entire length of the development **subdivision to match existing right-of-way from the subdivision north to Huffine Lane (US 191)**. 21. Lynx Lane shall be constructed to full County-paved standards for the entire length of the subdivision. **The applicant shall work with the County Road Department and the property owner along the east side of Lynx Lane to explore an optional alignment of the centerline that would save existing trees.** 22. Calico Drive shall be paved to full County standards for the entire length of the subdivision. 23. ~~The Calico property owners may enter into a joint agreement with the Property Owners Association of Cougar Industrial, for the paving of Lynx Lane and Calico Drive.~~ 24. Lynx Lane shall be improved to County gravel standards for the south boundary of the subdivision to its intersection with Elk Road. ~~25.~~ **23.** Interior roads shall be built to County-paved standards, and have sixty (60)-foot right-of-ways, dedicated to the public. ~~26.~~ **24.** A two (2) year written warranty, from the contractor, shall be provide for the paving of county maintained roads. This warranty must be submitted to the County Road Department prior to final approval. 27. ~~A proportional reimbursement of paving costs shall be made to Cougar Park Industrial, for the earlier paving of Lynx Lane.~~ ~~28.~~ **25.** Applicant shall make payment(s) of road impact fees in accordance with the Subdivision Regulations. 29. ~~26.~~ **26.** Applicant shall make payment(s) of fire protection impact fees in accordance with the Subdivision Regulations. ~~30.~~ **27.** Applicant shall comply with all fire protection conditions of approval and covenants as specified by the Rae Fire Department, **in the fire protection package dated 4/22/02, numbered 4/22/02-03, and amended 5/14/02 to omit condition 1.11 and add the following statement to condition 2.2-Written certification, by a Professional Engineer licensed in MT and approved by the FPAHJ, at the expense of the property owner, that the fire sprinkler system is each structure is compliant with the applicable NFPA standard and is fully functional shall be made to the FPAHJ annually or whenever ownership or use or occupancy or interior wall arrangement has changed. Failure to provide verification of the compliance and functionality of the fire sprinkler system may result in emergency responders treating the building as non-sprinkled.** Applicant shall obtain a letter of compliance with such conditions and covenants from the

Rae Fire Department prior to final plat approval. ~~31-28.~~ Applicant shall provide a mitigation plan for sheriff services that is acceptable to the County Commission. ~~32-29.~~ Applicant shall have three (3) years to complete the above conditions and apply for final plat approval(s). Suggested changes are highlighted within the conditions. Commissioner Mitchell asked if the existing buildings in the area are all commercial, and Ms. Windemaker confirmed that they are, with no residential buildings. Mr. Dale Beland stated that this application is unique as the eight existing buildings represent an atypical subdivision. In a normal process, the four new lots would constitute a minor subdivision. This indicates that the applicants have the best of the area at heart and are offering positive things for Gallatin County's future by going through review, upgrading and extending roads, providing open space, etc. This is also a rarity in that it is an industrial subdivision, not a residential subdivision and it will increase and improve the County's job base. The applicant has worked with the Road Department, Fire Department and Planning staff and the result has been positive and beneficial. The changes to the conditions are a reflection of this. There are additional conditions of concern, but these will be mitigated with condition 27 that requires that the developer accommodate the requirement of the Rae Fire District. The applicant is concerned and confused by condition 28 that asks the applicant to provide a mitigation plan for Sheriff services that is acceptable to the County Commission. They do not know how to respond to this request, and would like some consideration on this point. This application received unanimous support from the Planning Board, as well as support from the neighbors. Commissioner Mitchell asked how the open space would be maintained and Mr. Beland explained that it would be maintained through a property owner's association. Commissioner Vincent explained to Mr. Beland that condition 28 will either be taken out or the applicants can make a voluntary payment to the Sheriff's Office for mitigation purposes, but it is not a legal or regulatory condition. Commissioner Vincent stated concern over exterior lighting and its impacts on surrounding areas. He asked Mr. Beland if he would work with the applicants to find lighting that meets their needs for security but is contained, and Mr. Beland said that he would do so. **Commissioner Vincent moved to approve the Calico Industrial Park Major Subdivision, noting the Planning Board recommendation, the changes in the conditions as presented, and finding that it meets the criteria of the Montana Subdivision and Platting Act, the Gallatin County Plan and the Gallatin County Subdivision Regulations. Commissioner Mitchell asked if Commissioner Vincent intended to remove condition number 28 and he stated that he does. Commissioner Mitchell seconded the motion. In discuss, Commissioner Murdock stated that with an impact study on public safety, Sheriff protection, the full opportunity for public input, condition 28 would be appropriate, but not at this time. If the applicant chooses to contribute they may do so. Commissioner Murdock also stated that he is concerned about the expanding of the industrial center in this particular area, and will not vote in the future for limitless expansion in this area. Commissioner Mitchell stated that she believes this plan to be well laid out, contiguous with existing services that are similar in size and type, and she likes the addition of green spaces. All voted aye. Motion carried unanimously.**

There being no further business the meeting was adjourned at 10:20 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 4th DAY OF JUNE 2002

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

MAY 27, 2002

- The Commission office was closed in observance of Memorial Day.

MAY 28, 2002

- The Commissioners attended a special meeting for the purpose of approving claims listed on voucher list dated May 22, 2002. In attendance were Commissioners Murdock, Mitchell and Vincent, Auditor Joyce Schmidt, Accounting Clerk Renee Huyser, and Commission Assistant

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Glenda Noyes. Commissioner Mitchell made a motion to approve claims including check numbers 8010756-8010766, totaling \$15,574.78. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

- The Commissioners attended a special meeting for the purpose of approving claims listed on voucher list dated May 23, 2002. In attendance were Commissioners Murdock, Mitchell and Vincent, Auditor Joyce Schmidt, Accounting Clerk Renee Huyser, and Commission Assistant Glenda Noyes. Commissioner Vincent made a motion to approve claims including check numbers 8010767 – 8010768, totaling \$6,824.01. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

MAY 29-31, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated May 30, 2002 in the amount of \$178,587.39.
2. Consideration of Contract(s): Weather Radio Service Agreement between National Weather Service and Gallatin County; Grant Award for the Community Corrections Pilot Program from the Montana Board of Crime Control; Grant Award to Gallatin County from the Montana Board of Crime Control for the Drug Court Urinalysis Testing/Treatment Program; Grant Award for the Missouri River Drug Task Force Program from the Montana Board of Crime Control; RID Vegetation Control Engineering Services-Task Order 928-123-010-0310-B-to Contract #2002-23; RID Vegetation Control Program-Task Order 928-123-010-0310-B-to Contract #2002-23; and Detention Center Reimbursement Agreement w/State Agencies (Dept. of Corrections & Department of Justice).
3. Request for Final Plat Approval for the Quake Industries Minor Subdivision. Preliminary plat approval was granted on February 12, 2002. Belgrade City-County Planner Jason Karp states that the applicant has demonstrated compliance with each of the conditions as required by the preliminary plat approval. Mr. Karp recommended that this application be granted final plat approval.
4. Request for Common Boundary Relocation Exemption for John and Linda Rabel described as Tract C of COS 1003 and COS 1401A, located in the NE ¼ NW ¼ of Section 14, T1S, R4E, Gallatin County, Montana. Belgrade City-County Planner Jason Karp reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Common Boundary Relocation Exemption for Roger and Mary Ann VanDyken located in the SE ¼ of Section 21, T1S, R4E (Lee Road). Belgrade City-County Planner Jason Karp reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Common Boundary Relocation Exemption for Darren and Denise Madsen and Robert and Nancy Foster located in the SW ¼ of the NW ¼ of Section 36, T1N, R5E, (6090 Springhill Road, Belgrade). Gallatin County Planner Sean O'Callaghan reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
7. Request for Mortgage Survey Exemption for Leroy and Wilma Logterman located in the NE ¼ of Section 2, T2S, R3E (11831 Churchill Road, Manhattan). Gallatin County Planner Sean O'Callaghan reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
8. Request for Release of Zoning Improvements Agreement for the Greenspace Landscaping Storage Building. Gallatin County Planner Jennifer Koozer recommended that the security deposited with the American Bank in the amount of \$9,774 be released to Greenspace Landscaping.
9. Consideration of the Request for Final Plat Approval for the Big Sky Town Center Phase 1 Major Subdivision. Preliminary plat approval was granted on October 17, 2000, and on April 24, 2001, the Commission approved a modification to the preliminary plat. Interim Planning Director W. Randall Johnson stated that all the conditions for final plat approval appeared to have been met.

Commissioner Murdock noted a possible continuance of regular agenda Item #8, public hearing and consideration of second reading of a speed reduction ordinance for the roads in the Outlaw Country South Subdivision, pending the advice of Gallatin County Attorney Marty Lambert. He added that regular agenda Item #16, public hearing and consideration of adoption of the amended application process for awarding funds from the Open Space Bond would be advanced to regular agenda Item #3, at the request of the Chairman of the Open Lands Board. Commissioner Vincent noted that during

previous discussion they had decided to move any final plat approvals placed on the consent agenda to the regular agenda, per the advice of Mr. Lambert. Gallatin County Planner W. Randall Johnson requested that the new regular agenda Item #3, be changed to Item #5, and requested that consent agenda Item #9, consideration of the request for final plat approval for the Big Sky Town Center Phase 1 Major Subdivision be regular agenda Item #3. Commissioner Mitchell read the consent agenda, noting that consent agenda Items #3 and 9 would be placed on the regular agenda. Commissioner Murdock added that those consent agenda items would be regular agenda Items #3 and 4. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Soap Box Derby coordinator Shawna Schaar on behalf of Alcohol and Drug Services presented a proclamation declaring the weekend of June 8-9, 2002, as Bozeman Montana All American Soap Box Derby Weekend, noting that the dates on the agenda were incorrect. Ms. Schaar read the proclamation. Commissioner Vincent spoke in recognition of Roger Curtiss who was instrumental in bringing this event back on board in Gallatin County. **Commissioner Mitchell moved to declare June 8-9, 2002, as Bozeman Montana All American Soap Box Derby Weekend in Gallatin County. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

The Commission concurred that it would best to continue appointments to the Historic Preservation Board until June 11, 2002, in an effort to seek additional applications from outside the Bozeman area in an attempt to have broader representation of the county. There was no public comment. One vacancy exists on the Gallatin Gateway Rural Fire District Board of Trustees due to the resignation of Larry Wyatt. Appointment to fill this term will be on an interim basis until the next Fire District Election to be held on May 6, 2003. Two applications were received from Pat McManus and Ronald Page. The canvass of the May 7, 2002, fire district election showed that Ronald Page was a candidate and received 279 votes, or 47% of the vote for this position (this was a "vote for two" category with three candidates). A letter of recommendation was received from Ray Millikin, Chairman of the Board of Trustees recommending Mr. McManus for the position. Public comment: Ron Page outlined his history in Gallatin County along with his prior experience being involved with the Gallatin Gateway Rural Fire Department as a volunteer firefighter. He explained that as of this morning he had turned in his fire gear, because the current By-Laws of the district read that a firefighter could not be a member of the board. He stated that the State of Montana does not back this as a viable requirement, and added that the By-Laws had never been officially amended or adopted other than just being in the minutes for the last 15 years. He commented at that point his equipment would be turned in until the issue was addressed. Commissioner Mitchell expressed concern with Mr. Page's testimony, as it appeared there were some contentious issues with regard to firefighters being Board members, noting that this has been an issue with all fire districts. Further discussion took place with regard to the testimony of Mr. Page and the recommendation from the Chairman of the Fire District supporting Mr. McManus. Commissioner Murdock stated that he was prepared to appoint Mr. Page. Commissioners Mitchell and Vincent preferred a continuance in order to make additional reference calls. Mr. Page was questioned regarding future decisions with regards to being a firefighter or a board member. He believed he would better serve as a trustee and stated that he was willing and able to work with the current board with all issues including communications and budgeting. He clarified if the issue of being a firefighter and a board member were to arise that he would discuss it with board before making that decision. Commissioner Mitchell stated that she would support the appointment of Mr. Page if he could assure the Commission that he would leave his gear off if appointed and not make an issue by creating contention among the Board members. **Motion by Commissioner Mitchell to appoint Mr. Page, providing he not make an issue of trying to become a firefighter while on the Board. Seconded by Commissioner Murdock.** Commissioner Vincent opposed the motion. He was not opposed to Mr. Page's appointment however; he was uncomfortable with obligating him, as the motion implied, that it would preclude him from becoming a firefighter as long as he was on the Board. He stated he would feel more comfortable if Mr. Page had no objection. Mr. Page confirmed that he was willing to accept the motion, however he believed that the fire chief and firefighters might bring the issue up to the Board. Commissioner Murdock did not view the stipulation as anything binding, only that it was a commitment. **None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the request for final plat approval for the Quake Industries Minor Subdivision. Mr. Karp confirmed that the applicant demonstrated compliance with all the conditions as required by preliminary plat approval. He recommended that the subdivision be

granted final plat approval. There was no public comment. **Commissioner Vincent moved to grant final plat approval to the Quake Industries Minor Subdivision, finding that the applicant has demonstrated compliance with each of the conditions as required by preliminary plat approval. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on consideration of the request for final plat approval for the Big Sky Town Center Phase 1 Major Subdivision. Based on the information in the staff report, Mr. Johnson stated that it appears that all conditions for final plat approval for Phase 1 of the Big Sky Town Center Subdivision have been satisfied. He added that the Commission made the findings and conclusions during preliminary plat approval with regard to compliance with the County Master Plan, Big Sky Zoning Regulations, Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. Mr. Johnson stated that Staff has gone through each of the conditions to make sure they were met. There was no public comment. **Commissioner Mitchell moved approval of the final plat for the Big Sky Town Center Phase 1 Major Subdivision. Seconded by Commissioner Vincent. Commissioner Mitchell added the finding that staff found all the conditions have been met and it complied with the Subdivision Regulations, Zoning Ordinances, and the Master Plan. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on consideration of a resolution of the Gallatin County Commission to deny the CVG Montana, L.L.C. Antler Ridge Subdivision Lot 106 variance request. On May 9, 2002, the Planning and Zoning Commission and the Gallatin County Commission held a joint public hearing to consider the variance request and voted unanimously to recommend denial. **Commissioner Vincent moved to approve Resolution #2002-064. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on consideration of a resolution of the Gallatin County Commission to deny the CVG Montana, L.L.C. Antler Ridge Subdivision Lot 124 variance request. On May 9, 2002, the Planning and Zoning Commission and the Gallatin County Commission held a joint public hearing to consider the variance request and voted unanimously to recommend denial. **Commissioner Vincent moved to approve Resolution #2002-065. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Open Lands Board Chairman Mike Lane reported on the public hearing and consideration of adoption of the amended application process for awarding funds from the Open Space Bond. Mr. Lane on behalf of the Open Lands Board requested that the Commission adopt the new criteria and a new application process for applicants applying for new Open Space Bond money, adding that the Board voted unanimously to accept the changes. Chief Deputy Civil County Attorney Chris Gray explained that he had worked with Marty Zeller in assisting the Open Lands Board in refining their application process. There were four documents amending the current application process. The first was the application itself for funding the Gallatin County Open Space Grant Program Purchase of Conservation Easements on Private Lands and Important Agricultural, Natural Resource and Community Identified Values. He suggested the following changes to that document. At the end of the third sentence in the Introduction, add: (Qualified land conservation organization shall be defined under the Internal Revenue Code); and at the end of the second paragraph before the colon, add: (No application shall be accepted where the contemplated transaction is completed or closed before November 7, 2000). There were no changes to the second document, which was the Open Lands Project Rating Chart. The third document was the application for funding the Gallatin County Open Space Grant Program Public Parks, Recreation, Environmental Education and Trails. Additionally, he suggested the same change for this document as the first related to the November 7th date. There were no suggested changes for the final document, which was the Gallatin County Parks, Recreation, Trails and/or Environmental Education Project Rating Chart. Mr. Gray will make the suggested changes for the final signed documents. He was comfortable with the changes, adding that it provides a more comprehensible way to evaluate any application. He stated that any application that was submitted in the November round would still go under the old rules and new applications would be under the new rules. There was no public comment. **Commissioner Mitchell moved to approve the process as proposed by this amendment for the application**

processes for the Open Space Bond Fund, effective immediately. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Commissioner Murdock announced that due to the primary election that was being held today, Gallatin County Clerk and Recorder/Election Administrator Shelley Vance was unavailable to report on receipt of the petition and resolution of intention to create the Canary Road Rural Improvement District #382, for paving improvements, described as a tract of land being Lots 1-13 of Skyview Subdivision, Lots 1-7 of Mountain Splendor Subdivision, Lots 1-A and 1-C of Minor Subdivision 5A, Lots 8-21 and the recreational lot of Phase I-A and the western 1288 feet of Phase II of the Fort Ellis Leisure Community, Tracts 1 and 2 of COS 936, and Tracts 1 and 2 of COS 1780 situated in Section 16, T2S, R6E, P.M.M., Gallatin County Montana. Representing RID's the County Attorney Swimley, on behalf of the Clerk and Recorder reported that the petition was examined Pursuant to Section 7-12-2110 MCA 2001, and the Gallatin County RID policy, that there were 26 parcels represented by qualified signatures appearing on the petition out of a possible 42 assessable lots, which constitutes 62 percent of the parcels within the proposed district. According to the Gallatin County RID policy, 60 percent of the parcels represented by qualified signatures are required on the petition. There was no public comment. **Commissioner Vincent moved to accept the petition. Seconded by Commissioner Mitchell. Commissioner Murdock added the finding that the Clerk and Recorder certified that the percentage exceeded the policy. None voting nay. Motion carried.** Ms. Swimley summarized the process to consider for creating the RID, should the Commission find that it was in the public convenience and welfare and if they wanted to back the sale of the bonds with the revolving fund. Jim Pierce, on behalf of Thomas, Dean & Hoskins reported that the estimated market value of the property in the district is estimated to increase by the amount of the special assessment as shown in Exhibit "C"; the ownership of the property is diverse, finding that there are 42 lots, parcels, or tracts to be assessed, in 4 instances 2 lots are held by two people in common ownership. In 2 instances lot, parcels or tracts are held by one owner and that same owner holds another lot in common ownership with an additional owner; There are 9 special assessments due in this district; there are 0 mortgage backed bonds or levies of record against property in this district; There are \$213.31 in delinquent property taxes, and of that one lot owes \$108.43; and one lot is delinquent by \$104.88. The assessed value of the total district is \$5,002,323. Benefits the public will receive are improved road surface, cleaner air, improved storm drainage and reduced yearly maintenance. These are not newly platted subdivisions. Mountain Splendor Subdivision was platted in 1978. Fort Ellis 1A was platted in 1995. Minor Subdivision #5 was platted in 1979. COS 936 was filed of record in 1980. COS 1780 was filed of record in 1993. Skyview was platted in 1981. There was no public comment. Based upon the findings as stated by Mr. Pierce and that this Rural Improvement District is in the public interest and best serves the interest of the County and the district, **Commissioner Mitchell moved to pledge the revolving fund to secure this RID. Seconded by Commissioner Vincent. None voting nay. Motion carried. Finding that this RID serves the public interest and convenience, Commissioner Mitchell moved to adopt Resolution of Intention RID-02-382A. Seconded by Commissioner Vincent. None voting nay. Motion carried.** The protest period will be advertised and the hearing will be held June 25, 2002.

Gallatin County Attorney Marty Lambert reported on the public hearing and consideration of a resolution of intention to create Hyalite Meadows Rural Improvement District, described as a tract of land being Lots 1-26 of Hyalite Meadows Subdivision and Tract A of COS 426 situated in Section 3, T3S, R5E, P.M.M., Gallatin County, Montana. Mr. Lambert explained that he had met with Kandy Rose, one of the petitioners prior to this hearing with regard to the status of this RID. He pointed out that this version of the petition was not received until the middle of May, and they had not received the Clerk and Recorder's verification of signatures until yesterday. Therefore, he was unable to discuss the petition and status until then. He spoke regarding the exclusion of the Townsend and Lang properties in the petition, which are outside the Hyalite Meadows Subdivision. He believed that by excluding these properties they were cutting corners, as County policy provides that all properties that benefit shall be included in the district, as well as Section 7-12-2158 MCA, provides that all properties that are directly benefited by the RID should be included. Therefore, it was his legal opinion that both properties should be included and currently the Townsend property was not included. He stated that Project Engineer Rick Kerin of Kerin and Associates was in agreement with that however, he was having difficulty with the Gallatin County RID policy in which 60 percent of the parcels represented by qualified signatures are required by the petition. Mr. Lambert noted that Gallatin County Fiscal Officer Ed Blackman requested details regarding calculations of the maintenance fee as it appeared to be too low, and has yet to be provided with that information. He also, noted that the estimated assessment per lot changed in versions of the petition from \$7,152 to \$7,857 with no explanation. He stated that there was a substantial delinquency on the Dunkel property between \$4,000 and \$5,000. In conclusion, he expressed concern as he went through the file with regard to finding correspondence from Mr. Kerin to MaeNan

Ellingson, as early as May 2, 2002, when Susan Swimley was listed as the attorney for this RID, up until May 27, 2002. He was concerned that the attorney who was retained for this RID was being circumvented. With these issues he stated concern with the Commission moving forward on the petition or the passing of the resolution of intention. Public comment: Kandy Rose, a resident of Hyalite Meadows summarized the history and processes that the committee has gone through in bringing this petition forward. Randy Larimer, a resident of Hyalite Meadows spoke in defense of Florence Dunkel, the owner of the parcel with the delinquent taxes, stating that if she were reminded she would bring them current. Commissioner Murdock noted that the Clerk and Recorder's report certified that there were 15 parcels represented by qualified signatures appearing on the petition out of a possible 27 assessable lots, which constitutes 56 percent of the parcels with the proposed district. He also, added that one parcel was not counted because a husband signed and it was also listed under the wife. Mr. Kerin provided a base map for the Commission to view. He stated that there were 28 lots in the resolution of intention and 27 lots in the petition, and that it was an oversight when the initial petition did not include the Townsend property. He agreed that this tract clearly benefited. He added that letters were received from the Lang's and Townsend's asking to be excluded from the district. Mr. Kerin began to enter the findings to be made for the rural improvement district and it was determined by the Commission that they were not ready to accept that information until after receipt of the petition. Mr. Lambert reiterated that there were a lot of discrepancies. He added that he would work on his end with regard to the legalities, to keep the petition on tract and once the financial concerns were worked out, then they could reconsider receipt of the petition at a future date. Commissioner Mitchell suggested that the petitioner check with the Road Department because, in review staff believed there may be other easements that have not been developed, and the benefit of the two properties in question could change with the status of those roads. Commissioner Murdock stated that under the circumstances he could see his way clear to waive the 60 percent if it came down to it. Commissioner Mitchell requested the following points be met: that the benefited tracts be included, unless they have other public access; the discovery, status and update of available easements; paid up taxes and history demonstrating that the assessments will be paid on a timely basis in the future; that the Fiscal Officer's concerns are met; and that the legal criteria and the County Policy be met. She encouraged the neighborhood to work on bringing this together and believed it was doable however, she was going to adhere to the policy and she did not see a need to move from the 60 percent unless, there was another access to the parcels in question. Commissioner Vincent commented that he was open-minded on 60 percent, and he agreed that they needed to take this one step at a time. He added that he would like to hear from the Treasurer at some point regarding the issue of addressing the delinquent taxes. **No action taken.**

Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent to increase the Gallatin County operating budget to include unanticipated revenues for the enforcing of Underage Drinking Laws Program. Commissioner Vincent requested some background on the effectiveness of this money and how it will be used to help with enforcement in this regard. Mr. Watson stated that the process of resolving the budget to receive the funds is out of sync with the operation of the program, as when the contracts were approved, the program was put into place and these funds have been spent and the program has been under operation for the majority of this fiscal year. He explained that this program funds a school resource officer, who is a deputy assigned by the Sheriff and an employee of Alcohol and Drug Services who primarily provides public education throughout the schools. Further discussion took place regarding an objective analysis on the effectiveness of this program. Sheriff Cashell spoke with regards to other things that were being done with the prevention program. He explained that the school resource officer Deputy Dan Springer could make a report on the number of contacts that he has dealt with and citations issued. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-066. Seconded by Commissioner Mitchell,** adding that she was concerned that it seemed they have an overlap of services on prevention. She added that they should focus on a balance where they don't have an overlap, yet they provide the essential services that are needed, and Youth Detention is one of those. She requested that the Sheriff's Department, DUI Task Force, DARE, grants and any other programs that are overlapping in areas, pull it together. **None voting nay. Motion carried.**

Commissioner Murdock requested Gallatin County Attorney Marty Lambert's advice with regards to the second reading of the speed reduction ordinance for the roads in Outlaw Country South Subdivision that was not posted by the Clerk and Recorder, as required by law after the first reading on May 21, 2002. Mr. Lambert requested that the Commission go on with the meeting until he could research the law.

Commissioner Mitchell announced the public hearing and consideration of the first reading of a speed reduction ordinance for a portion of Talc Road. The second reading will be held June 18, 2002. There

was no public comment. **Commissioner Vincent moved to approve the first reading of Ordinance #2002-04. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Vincent announced the public hearing and consideration of the first reading of a speed reduction ordinance for Linney Road. Public comment: Johnny Stevens requested that the speed be reduced to 40-mph, rather than the 45-mph as stated in the petition because of its close proximity to homes, children and pets. Gallatin County Road and Bridge Superintendent Lee Provance responded that generally the speed limits are set at the 85 percentile, of which was 42.8-mph. He noted that setting lower speed limits would encourage people to speed. He recommended 45-mph. **Commissioner Mitchell moved to approve the first reading of Ordinance #2002-05. Seconded by Commissioner Vincent.** The Commission was in agreement that this could be changed if needed, at a later date. **None voting nay. Motion carried.**

Gallatin County Marty Lambert quoted Section 7-5-103, with regards to the second reading of the speed reduction ordinance for the roads in Outlaw County South Subdivision, noting that it states after the first reading and adoption that it must be posted and copies made available to the public. Since the law did not include the timing of the posting, Mr. Lambert recommended that it be posted by the Clerk and Recorder, and continue the second reading for one week. Public comment: John Weigand spoke in support of the-25 mph speed limit in the subdivision, and he was in agreement with the one week delay. Further discussion took place with regards to setting speed limits, signage and speed furrows. The second reading was continued until June 11, 2002. **No action taken.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of four resolutions to change road names in Gallatin County. Mr. Armstrong explained the road name changes were initiated by resolution #2002-17, giving the GIS Department the authority and recommendation to make changes to county road names to facilitate 911 rapid location of properties and roads by emergency service personnel. This procedure was brought forth to eliminate duplicate road names. The changes were Meadow Lane, changed to Maus Lane; Aster Avenue, changed to Astor Avenue; Indian Paint Brush Drive, changed to Indian Paintbrush Drive; and Country Club Drive, changed to High Country Road. Mr. Armstrong noted that the residents were notified of their new address and it will become record of the plat. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2002-067, Maus Lane. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to approve Resolution #2002-068, Astor Avenue. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to approve Resolution #2002-069, Indian Paintbrush Drive. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to approve Resolution # 2002-070, High Country Road. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for preliminary plat approval for Morrison-Maierle, Inc., on behalf of Norman Dykstra Limited Partnership for the Dykstra Commercial Minor Subdivision, a five lot minor subdivision on 19.8 acres. The property is located 4 miles south of Belgrade on the east side of Jackrabbit Lane at the southeast corner of Jackrabbit Lane and Valley Center Road. The property is described as the NW ¼ of Section 25, T1S, R4E, P.M.M., Gallatin County, Montana. Mr. Karp noted a change in the staff report under the Effect on local services, with the amounts on the fire and road impact fees. The correct amount of fire impact fees was \$547, and \$1,759 for road impact fees. The Belgrade City-County Planning Board reviewed the preliminary plat and voted at their April 29, 2002, public meeting to recommend approval, subject to the conditions. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission needs to make the following determination: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The

undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Property Owners in accordance with State Law. d. The Property Owners Association shall be responsible for the maintenance of Dykstra Lane. e. A Property Owners Association shall be established. f. The Property Owners Association shall be responsible for the maintenance of the fill-site. g. The subdivision shall be used for commercial purposes. h. Plans must be submitted to the State of Montana, Building Codes Division, and the Belgrade Rural Fire District for review and approval for all commercial structures. i. All structures must meet minimum fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. j. Section VI must be changed from NFPA 13D/Uniform Fire Code to NFPA 13/Uniform Fire Code. k. Section VII setbacks should be increased from 5 foot to 25 feet. l. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer must obtain an encroachment permit from the Montana Department of Transportation for the Dykstra Lane intersection with Jackrabbit Lane. *(recommended language from MDOT: The developer must meet all MDT requirements for access prior to the filing of the final plat.)* 11. The developer must obtain an encroachment permit from Gallatin County for the Dykstra Lane intersection with Valley Center Road. 12. Road names shall be approved by the County GIS Office, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office. 13. Dykstra Lane shall be a sixty-foot right-of-way, dedicated to the public, and shall be constructed to Gallatin County paved standards. 14. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval. 15. The final plat(s) shall show a no access strip for vehicles along all lots adjacent to Jackrabbit Lane except at MDOT approved road encroachments. 16. An NFPA compliant fill-site or other Fire Department approved water supply is required. The water supply must be constructed to Belgrade Rural Fire District Standards. Plans for the fill-site must be submitted and approved by the Fire Department prior to installation. 17. 45 feet of Valley Center Road south of the centerline along the width of the subdivision shall be dedicated to the public on the final plat. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp noted that MDOT recommended that the following language be added to condition #10: The developer must meet all MDOT requirements for access prior to the filing of the final plat. He also noted a correction to condition #17, changing it to read 60 feet, rather than 45 feet. The applicant's representative Greg Stratton, with Morrison-Maierle expanded on plans for the proposal, access off Jackrabbit Lane and landscaping for buffering. Mr. Stratton submitted Exhibit "A", a letter from himself to Belgrade Rural Fire District Assistant Chief Bryan Connelley with alternatives designed to meet the fire protection needs. Developer Gene Cook, assisting the project stated that the applicant would be in agreement to incorporating into the proposal a landscaping buffer and lighting mitigation. Mr. Connelley was in agreement to the alternatives submitted for addressing the fire protection needs. There was no public comment. Mr. Karp recommended the following additions to the conditions and covenants: condition #18: The developer shall submit a landscape plan to be approved by the Belgrade Planning office and installed prior to final plat approval; condition #19: The developer

shall submit a lighting plan to be approved by the Belgrade Planning office and installed prior to final plat approval; and covenant m: Property owners shall conform to the adopted lighting plan approved by the Belgrade Planning Department. Mr. Cook was in agreement with all the conditions and changes. **Commissioner Vincent moved to approve the Dykstra Commercial Minor Subdivision with the addition of conditions #18 and 19, and covenant m, as read by Mr. Karp, finding that the application meets the requirements of Section 76-3-608, MCA. Mr. Karp noted the change to condition #17, and the recommended wording to be added to condition #10. Commissioner Vincent incorporated those additions into the motion. Seconded by Commissioner Mitchell, finding that the Belgrade City-County Planning Board reviewed and voted for approval. Commissioner Murdock added that it was in conformance with the Gallatin County and the Belgrade Area Subdivision Regulations. None voting nay. Motion carried.**

Gallatin County Attorney Marty Lambert reported on a pending resolution amending #2002-021, correcting typographical errors to the resolution Calling for Election for Adult Detention Center General Obligation Bonds, changing streets to avenues. He noted that the changes were made to the ballot language. **Commissioner Mitchell moved approval of Resolution #2002-021A. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

There being no further business the meeting was adjourned at 12:11 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 11th DAY OF JUNE 2002

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

JUNE 3, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Noyes. The Commissioners discussed ratification of a second amendment to the Garrity Lease at the Three Forks/Pogreba Airport. Mr. Gray explained that the County must agree to any new land lease or structure on the Pogreba property. Garrity wants to lease more area for a hanger. Commissioner Vincent made a motion to ratify a change to the lease, finding that the County Attorney has recommended approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a request for a budget transfer for the Planning Department. Commissioner Vincent made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a request for privilege to charge tipping fees at the Gallatin County Landfill, Logan, from McLees, Inc. Commissioner Mitchell made a motion to approve said request, pending approval from Finance Officer Ed Blackman. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of asset disposal requests from the County Attorney's Office, Justice Court (2), and the County Commission. Commissioner Vincent made a motion to approval all requests as stated. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered NACo voting credentials for the 2002 annual conference, and approval of the Chair to sign related documents. Commissioner Mitchell made a motion to complete the NACo voting credentials document noting that Gallatin County does not give MACo voting powers for Gallatin County at the NACo convention, and authorizing Chairman Murdock to sign said document. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

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The Commissioners considered a change order submitted for Phase III, IV remodel construction in the amount of \$769. Commissioner Mitchell made a motion to approve said change order pending approval of Mr. Blackman and clarification on the architect's percentage of mark-up. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

JUNE 4-7, 2002

- The Commissioners conducted regular County business.

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- Landfill Revenue for May 2002: \$93,040.28.
- Payroll for May 2002: \$1,119,760.75.
- Clerk & Recorder's Fees Collected for May 2002: \$74,966.24.
- A-101's for May 2002; \$79.00.
- Application for Cancellation of Taxes for May; \$322.82.
- New Hire Report for May 2002: Jill Ayers, Kristina Barnes, Shawn Briggs, Sam Clark, Jennifer Gampetro, Christine Griffith, Adam Grigsby, Bart Hawkins, Joanne Lee, Christopher Lehfeldt, Rose Malisani, James Olson, Seth Reedy, Rosanne Rider, Diane Riedl, Joseph Stahl, Tanya Straessler, Kwinci Tataraka
- Terminated Employees' Report for May 2002: Dena Daniel, Christine Griffith, Adam Landgraf, Melissa Larson, Douglas Pyeatt, Sarah Ruppert, Joseph Stahl, Wayne Van Tighem, Sara Wilber

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated June 6, 2002 in the amount of \$419,299.26.
2. Consideration of Contract(s): Road Improvements Project GCR-02-01 w/JTL Group, Inc.; ARJO Century Service Agreement w/Gallatin Rest Home; Stahly Engineering and Associates and Gallatin County for CTEP Manhattan Sidewalk Project; Morrison-Maierle, Inc.-Engineering Services RID 323 Middle Creek Subdivision No. 2 Overlay Program; Morrison-Maierle, Inc.-Engineering Services RID 324 Glacier Condo Parking Lot Overlay Program; Morrison-Maierle, Inc.-Engineering Services RID 338 Mountain View Subdivision Overlay Program; and Morrison-Maierle, Inc.-Engineering Services RID 339 Mountain View Subdivision No. 2 Overlay Program.
3. Request for Common Boundary Relocation Exemption for Baker Springs/Winger.

Commissioner Vincent read the consent agenda, noting that consent agenda Item #3 was to be continued indefinitely. There was no public comment. **Commissioner Mitchell moved to approve the consent agenda, as amended. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

One vacancy exists on the Logan Landfill Advisory Board due to the resignation of Glen Jorgenson. This is a three-year term that will expire on December 31, 2004. Two applications were received from Bruce Hanson and Dean Ulrich. There was no public comment. **Commissioner Vincent moved to nominate Bruce Hanson. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** The Solid Waste Management District appointments were continued until June 18, 2002. Two vacancies exist on the Rae Fire Service Area Board of Trustees due to the term expirations of Daniel Springer and Joe Polus. These are three-year terms that will expire on April 1, 2005. Both members were contacted. To date, Daniel Springer expressed an interest in being reappointed to the board. Mr. Polus had not responded. Commissioner Vincent noted that an additional application was received late yesterday from Dayle H. Kountz. Board President Dave Lucas requested postponement of the appointments for two weeks in order to review the application received from Mr. Kountz, as well as other interested parties. Mr. Lucas believed that Mr. Polus was not going to reapply. Discussion took place with regard to continuing both appointments, and it was determined they would go ahead and make one appointment to keep continuity on the Board. **Commissioner Vincent moved to nominate Daniel Springer for reappointment. Seconded by Commissioner Mitchell,** noting that Mr. Springer was also a fireman and she was concerned that could create a possible conflict with the Board, however given that they are in the midst of budgets she believed it was a good idea. Commissioner Vincent noted that the Chairman, a non-firefighter and had given approval to reappoint Mr. Springer, so it appeared that he believed that the proportion was correct and the Board is working well together. **None voting nay.**

Motion carried. The second appointment was postponed until June 25, 2002. One vacancy exists on the Springhill Fire Service Area Board of Trustees due to the term expiration of Walker T. Weed. This is a three-year term that will expire on April 1, 2005. Mr. Weed was contacted and expressed interest in being reappointed to the Board. There was no public comment. **Commissioner Vincent nominated Walker T. Weed. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** One vacancy exists on the Tax Appeal Board due to the resignation of Dave Miller. Appointment to this position will be to fill the remainder of Mr. Miller's term, to expire on December 31, 2002; the appointment at that time will be for a three-year term. To date one application was received from Phil Olson. There was no public comment. **Commissioner Vincent nominated Phil Olson. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** The Historic Preservation Board appointments were continued until June 25, 2002, in an effort to obtain additional applications from individuals representing a broader cross section of the county. There was no public comment. **No action taken.**

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Chairman Mike Lane announced the presentation by the Open Lands Board to Mark Miller, winner of the "Open Land Specialty Plate" design. Commissioner Murdock congratulated all those involved and Commissioner Vincent for initiating the idea of the specialty plate through the legislature. The sale of this specialty plate will help generate administrative funds to run the Open Lands Board and administer the \$10,000,000 bond. Mr. Lane presented Mark Miller, the winner of the design contest for the specialty plate with a check. The plate should be available by the end of the week. The Commission recognized members of the Open Lands Board that were present. Commissioner Vincent gave special recognition to Terry Lonner for his extra efforts. Recognizing the attractiveness of the plate, he believed that there was a reasonable expectation of some relatively solid sales throughout the state, as it was not exclusively tied to Gallatin County. **No action taken.**

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Gallatin County RID Attorney Susan Swimley reported on the public hearing and consideration of the resolution creating Amsterdam RID #381, noting that the Commission passed a resolution of intention to create an RID for improvements on Amsterdam Road. Ms. Swimley outlined the RID process and procedures with regard to the notice, and acceptance and ruling on the protests filed with the Clerk and Recorder. She explained if the Clerk and Recorder's report reveals that owners bearing the assessment of 50 percent of the costs of this RID file valid protests, the Commission would be precluded from taking any action for 6 months. Short of that 50 percent it would be within the Commission's discretion to determine whether or not to create the RID. With regret, Ms. Swimley acknowledged that notice was mailed to almost all landowners. She explained that late yesterday afternoon it was discovered and confirmed that the state land parcel, which is on the assessment sheet was not noticed to the appropriate division of the State of Montana. Therefore, a landowner did not receive notice. She noted that the Commission needed to conduct a hearing although; they were not obligated to make a decision today with regards to ruling on the protests and creating the district. However, at the conclusion of the hearing she advised them not to create the district in order to give the proponents of the district an opportunity to contact the appropriate division of the State of Montana to determine if they would waive their right to protest and their right of receipt of the resolution of intention. Commissioner Mitchell noted that the Commission office too received protests. Ms. Swimley replied that they would not be considered valid protests unless they were filed pursuant to the notice with the Clerk and Recorder by 5 P.M. on Friday. In summary, the Commission received a request to waive the petition requirements for the creation of an RID that would have been River Rock RID, improvements to one mile of Amsterdam Road in front of River Rock. Public comment was received and a resident of the River Rock Subdivision testified that in his opinion the Commission should look at larger boundaries because other properties were clearly going to be benefited by those improvements. That information was conveyed to the engineer and the proponents of the RID, who drew new boundaries north to the interstate, and half way between Amsterdam and Frank Road. Upon reviewing the draft of those boundaries the Commission determined that the boundaries were too large to make a determination that all would be benefited by the improvements. Out of that meeting came a smaller boundary, from the interchange on I90 over to the river and along the south side of Amsterdam Road. Above that is the proposed Landmark Subdivision, for which the improvement of putting the light at Thorpe Road will be assessed. Project engineer Rick Kerin give a summary of the proposed boundaries, the assessment scheme and the improvements. Mr. Kerin submitted Exhibit "A", district boundary Amsterdam Road/Thorpe Signal RID. He pointed out the overall costs of the improvements, noting the cost of the Amsterdam improvements is \$2.64 million of which, the county road impact fee of \$733,500 was incorporated. The amount of bonds to be sold would be \$1.909 million for a 20-year term at a projected interest rate of 5.5 percent. He explained that they were using a square footage assessment up to a 2-acre maximum, with the principal assessment being

about \$10,681; yearly principal payment about \$534; interest would be \$300; the estimated annual payment for a 2-acre maximum would be about \$842. A typical River Rock lot at 8000 square feet would be paying an assessment of \$981.60 over a period of 20 years; estimated annual principal payment of \$77.42; monthly payment about \$6.45. A one-acre tract in the High K neighborhood would be paying a principal assessment of \$5,300, over the period of a 20-year term; estimated annual principal and interest payment would be approximately \$421; estimated monthly payment of \$35. Two-acre tracts would double that amount. The Commission questioned the substantial difference. Mr. Kerin submitted Exhibit "B", summary showing a breakdown of each portion based on a percent of the total project costs. He commented that it was pretty comparable to what was being assessed. Further discussion took place regarding whether the whole district would increase in value by the value of the costs of improvements. Noting the differences within the district, Commissioner Vincent questioned whether the ones with the greater contribution, received a greater benefit. Jason Leep on behalf of Potter-Clinton Development pointed out that there are only 3 ways allowed to assess for a district. Those are assessable value; lot frontage; and square footage. He explained that market value was obviously not the right way, because all the large undeveloped tracts of River Rock would be market valued way lower than a 2-acre lot in High K. It could not be done with lot frontage for the same reason that it appears square footage appears unfair. Lot frontage in High K and Rocky Mountain Business Park are much bigger than River Rock. Therefore, square footage was what they depended on because it gave the County the most flexibility, with maximum acreage. In comparison, he stated a High K single-family house paying ten times more than a single-family house in River Rock was obviously not quite fair. However, he added that High K has the option to further divide their lots and run a business. Mr. Leep stated that this is the only option that the law gives, when combining several different size lots into an RID. Because of the different use types and lot sizes, they analyzed no maximum square footage and determined that the 2-acre limit seemed to be the fairest way to spread the assessment. He believed this was as fair as the law allows it in this situation. Gallatin County Road and Bridge Superintendent Lee Provance stated that the County planned on maintaining this portion of the road until its possible for the state to take it over. He did have concern regarding the maintenance of the light, as they were not equipped for that type of maintenance. Ms. Swimley spoke regarding the creation of a maintenance district, adding that in this case the law did not mandate the Commission to do so. Gallatin County Treasurer Anna Rosenberry stated that the Treasurer's office has been responsible for calculating and posting to the tax system the bond assessments for RID's. Ms. Rosenberry noted if the district were created, she would be able to get the bond assessments on the bills in November for lower interest costs for the project. She would still be able to get the assessment on the bill as long as the bonds are sold prior to September 15, 2002. Gallatin County Clerk and Recorder Shelly Vance reported that the notice of the resolution of intention to create this RID was published in the High Country Independent Press on May 23rd and 30th, 2002. Notice was mailed to what was thought to be all record landowners and contract purchasers on May 23, 2002. Ms. Vance confirmed that the list of people assessed within the proposed district had an incorrect address, which was listed as the Montana Department of Transportation, rather than another entity of the State of Montana. She also stated that the notice referenced a map of the proposed district was to be attached, and there was no map submitted, mailed or published. She explained that in an effort to proceed with the Commission's intention to move forward to get the numerous notices mailed, she did not personally read the notice before it was mailed out so she did not know a map was to be attached. Therefore, no one received a map. Between the protest period of May 23rd and June 7th, the Clerk and Recorder received letters protesting the creation of this RID. The majority of them were protesting the assessment methodology, and the others protesting the boundaries and the creation. Ms. Vance pointed out that the notice stated that written protests against the creation or extension of the District and the making of the Improvements may be filed by an agent, person, firm, or corporation owning real property within the proposed District whose property is liable to be assessed for the Improvements. Based on that, protests were received from owners of property in the district to be assessed a total of \$623,066. However, it was also noted pursuant to Montana Code Annotated 7-12-2109 Right to protest creation or extension of district...Such protest must be in writing, identify the property in the district owned by the protestor, and be signed by all owners of the property. Ms. Vance stated that under those requirements, she was able to certify protests to the creation from owners of property in the district to be assessed a total of \$458,651.11. Commissioner Mitchell questioned if the lack of the map being attached to the notice would invalidate the notice, and if it was possible to continue the protest period since all owners were not notified? Ms. Swimley stated that \$623,066 would be 23 percent, so they would have had to receive \$1.4 million in protests to get the 50 percent that would preclude the Commission from creating the district. She added that statute does not require the map to be included, so in her opinion the lack of the map would not invalidate the notice. However, since there was a landowner that did not receive notice, did raise an issue. She added that the protest period could not be extended, as statute says the protest period begins after the first publication of the notice and runs for 15 days. Ms. Swimley stated if the Commission determines the impact fees collected are reasonably related and that there is a rational nexus between collection of the money and the improvements, they would be able to use that money to reduce the bonds, from \$2.8 to \$2.1. Mr.

Provance clarified that this road is a state secondary and with a written agreement maintained by the county. Discussion took place with regards to the State's obligation to the road. Mr. Provance cautioned if the impact fees were spent prior to the result of the court case, the residents would be responsible for the entire amount. Public comment: Roger Wells; Sonya Berg; Michael Carothers; Robert Lee; Tim Raubinger; Laura Grupe (choose not to speak, as it was already covered); Dennis Visser; Bernie Westra; Stan Yung; Cliff Abraham; David Richards; Nadia Beiser; Richard Milligan; Mary Hahn; Jim Alverson; Darrel Dehaan; Brandon Spitzer; and Peggy Johnson. The following concerns were expressed: lack of notification; inequitable method of assessment; protest time too limited; the need to extend the boundaries; no benefit to some of their properties; and improvements to the west were not needed. Developer of River Rock and Landmark Subdivisions, Mike Potter, on behalf of Potter-Clinton outlined the project's history, clarifying their effort to dispel that there was a conspiracy on their part. He noted that they had paid all of their impact fees and recognized their responsibility to the project. In response to the notices, Ms. Swimley clarified that the Department of Revenue only updates their ownership records, once a year as of January. Therefore, being the reason that some of the notices may have gone to previous owners. She also noted that none of the apparent undelivered notices were returned, although it was still a problem that the State of Montana was not noticed. She pointed out that there were four types of assessments as mentioned. However, the problem with the equal assessment methodology in River Rock is that it is not all platted. There are 535 platted lots and one large remainder tract, so with the equal assessment methodology they would all pay the same. Once the remainder tract is subdivided then the assessment for that tract would be split between those parcels, making it far from equitable. She confirmed that under the current proposal River Rock and Landmark waived their right to be assessed at 2 acres, and were assessed at what they will become. Commissioner Murdock stated that he was not going to vote for an assessment today. Commissioner Vincent concurred, and suggested the following as a motion: That they indefinitely postpone consideration of the Amsterdam Road/Thorpe Signal RID, meaning it would be reconsidered at a later date or alternatives would be considered at a later date, but no specific date would be set for that consideration; In a relatively short period of time the Commission would give clear directive to staff and counsel as to the direction after hearing public testimony today that they would like to take on this issue; and that the Commission conduct an evening public informational meeting on a possible alternative RID plan or plans, at a site in Belgrade, preferably City Hall, before a public hearing on any subsequent resolution of intention takes place. Commissioner Murdock concurred although; he was not in favor of an evening meeting. Ms. Swimley stated that the hearing could be continued from time to time as necessary however, it had to be continued to a date certain, and that it could not be postponed if they were not in favor of the assessment method. **Commissioner Vincent moved to deny the Amsterdam Road/Thorpe Signal as presented. Seconded by Commissioner Mitchell**, noting that she really appreciated the public testimony, as the point of this is public safety, and to accommodate impacts of growth in this area. It was clear to her that the boundaries proposed did not include all the impacts created by all the growth. She believed this was doable with a different assessment method therefore; she supported denial because she did not believe the boundaries or the assessment method was fair. Commissioner Vincent concurred, adding that he wanted to assure everybody with regard to doubt and suspicion that this was predetermined, that it was not the case. He stated that they come to public hearings with an open mind and, in the course of debate and public participation he has changed his mind any number of times given the evidence presented. He noted that usually they do these RID's from the bottom up, and this was a top down and although he was not opposed to that, after what they went through today shows that they need to make this process work better to facilitate this type of RID. Commissioner Murdock stated he would vote for denial for all the same reasons, although he believed that they needed to quickly make the improvements to this road. He recognized all those involved, noting that they did this with the Commissions full input. He stated that the Commission needed to take the blame for proposing the boundaries and the methodology, and it was clear that it was not going to work. He commented that there was not a perfect methodology, although he believed they could make it fairer. His direction was to make it more equitable and expand the boundaries and revisit how far west they need to extend the improvements. **None voting nay. Motion carried.**

Gallatin County Planner Jennifer Koozer reported on the public hearing and consideration of a request for preliminary plat approval by Gaston Engineering and Surveying, P.C., on behalf of Mark and Lani Huyser for the Huyser Minor Subdivision, described as Tract 4B of COS #1121A, in the E ½ of Section 33 and the W ½ W ½ of Section 34, T2S, R4E, PMM, Gallatin County, Montana, and is generally located at the intersection of Axtell-Anceny Road and Cottontail Road, west of Gallatin Gateway. The request is to subdivide a 60-acre parcel into four residential lots. Ms. Koozer noted that this proposal was in an area with precedent for denial, partially due to the location, such as the Day Ranch Major Subdivision, (denied based on leapfrog development, lack of clustering, effects on agriculture, water rights, viewsheds and emergency services); Schimpf Minor Subdivision, (leapfrog development, lack of

clustering, effect on agriculture, ridgtop development and the safety of Axtell-Anceny Road); and the Quatraro Minor Subdivision (leapfrog development, septic seepage, irrigation water, incompatibility with adjacent land uses, placement of utilities and easements, and general concerns associated with slope and flooding). She pointed out that the topography in this area was quite steep; most being over 25 percent slope and the border between the lots is the Highline Canal. The Highline Canal Company reviewed the plat and indicated that the company's property extends 50 feet on either side of the canal, and that the applicant must obtain approval from the company prior to constructing any bridges or fences within the easement. There is a high voltage power line that crosses Lot 2 and North Western Energy reviewed the plat and indicated that no structures should be built within the designated power line easement. Additionally, any structures or roads must be constructed in accordance with North Western Energy's standards, rules, and regulations, as well as the National Electrical Safety Code rules and regulations with regard to setbacks. Wendy Williams, of the Natural Resources Conservation Service, reviewed the plat and indicated that the soils, slopes and canal could present hazards for development. Additionally, she provided a map indicating that an intermittent stream exists along Axtell-Anceny Road that was not shown on the plat. Ms. Koozer stated it was the applicant's understanding that it was not really a watercourse, as it very seldom carries water. She noted that the Commission would have to consider this, as a condition was suggested that they have a 35-foot setback from the ordinary high water mark, but under the definition of ordinary high water mark there is no such watermark on this watercourse. A courtesy notice was sent to adjacent property owners and one letter was received regarding the safety of the Highline Canal because of the blowout last spring. She also, raised concern about this proposals conformance with the County Plan. On May 28, 2002, the Planning Board reviewed the proposal and heard comments from the applicant's representative and one member of the public who raised concerns about access and a lack of appropriate building site on Lot 1. Because the applicants indicated that they did not intend for Lot 1 to be developed, the Planning Board recommended that Lot 1 be combined with Lot 4, resulting in a total of three lots rather than four. The Board recommended approval 5:1, with conditions suggested by staff as modified during discussion. The following was noted as issues relevant to the Gallatin County Plan: Views; agriculture; and residential goal to discourage leapfrog development. Ms. Koozer briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with highlighting the suggested conditions. The Gallatin County Commission has one determination to make with this application: A determination as to whether to approve the proposed subdivision. The basis for the decision shall be whether the preliminary plat, and additional information demonstrate that the subdivision meets: The requirements of the Montana Subdivision and Platting Act; The Gallatin County Subdivision Regulations; and The Gallatin County Plan. If the County Commission approves the subdivision, the following conditions for final plat approval are suggested (underline and strikeout reflect Planning Board's recommendations for modifications to staff-suggested conditions: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. The final plat shall include consent of mortgagee for mortgage parcel M-324, or shall be accompanied by confirmation that the loan secured by M-324 has been repaid in full. 3. Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 4. One copy of the restrictive and protective covenants encumbering the real property contained within the subdivision shall be submitted to the Gallatin County Planning Department for joint review by the Planning Department and County Attorney's Office. The final plat application shall include written approval of the covenants by the County Attorney's Office. 5. One copy of the following documents shall be submitted to the Gallatin County Attorney's Office. The final plat application shall include written approval of these documents by the Gallatin County Attorney's Office. a. Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the property owners' association. c. Certificate of a licensed title abstractor. 6. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 7. All utility easements shall be shown on the final plat. With the exception of the high voltage power line, utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 8. For the high voltage power line, final plat shall include a utility easement with the width required by NorthWestern Energy. Applicant shall provide written confirmation of NorthWestern Energy's approval of the easement width. 9. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. 10. A geotechnical analysis shall be performed by a licensed engineer. The geotechnical analysis shall

identify building envelopes for any new structures on each lot, on slopes no steeper than 25% and driveways on slopes no steeper than 12%. The building envelopes and driveways shall be sited such that hazards related to slope and soil stability are minimized. The building envelopes and driveways shall be shown on the final plat. The final plat shall include a notation prohibiting new structures outside the building envelopes, and requiring the driveways and structures to be built in accordance with the recommendations of a licensed engineer's geotechnical analysis. 11. The final plat shall include an irrigation ditch easement for the Highline Canal, at least 50 feet on both sides of the centerline. 12. Final plat shall include a 35-foot setback from the ordinary high watermark of all watercourses. 13. Applicant shall record the following covenants on or with the final plat: a. *The control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b. *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* c. *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d. *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* e. *No structures shall be built within the high voltage power line easement on Lot 2. All roads, driveways and structures shall be built in accordance with NorthWestern Energy's standards, rules and regulations, as well as the National Electrical Safety Code rules and regulations.* f. *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3.* g. *Lot owners acknowledge the presence of an active ditch. Lot owners recognize that flooding is possible and accept responsibility for the location of structures and improvements.* h. *Lot owners shall not interfere with agricultural water user facilities nor remove water without deeded water rights approved by the Montana Department of Natural Resources and Conservation.* i. *Lot owners acknowledge and affirm the rights of agricultural water users and the jurisdiction of applicable federal, state and local agencies with respect to activities within all watercourses.* j. *No maintenance or improvements shall be performed on any watercourse without written permission from the owner of the waterway.* k. *No fences, bridges or other structures shall be constructed within the irrigation ditch easement without the prior consent of the Highline Canal Company or its assigns.* l. *The artificial feeding of all wildlife and big game shall be prohibited.* m. *All garbage shall be stored in animal-proof containers or be made unavailable to animals.* n. *Pets shall be controlled by each homeowner, and not allowed to roam at large.* o. *Owners acknowledge that wildlife damage to landscaping and other property may occur. Owners shall accept that risk and shall not file claims against any governing body for such damages.* p. ~~*Fencing in excess of 4 feet in height along exterior lot boundaries shall be prohibited.*~~ q. *All new lot accesses shall be constructed to County standards as specified in Section 7.G.2 of the Gallatin County Subdivision Regulations.* r. *Any covenant, which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 14. Applicant shall obtain encroachment permit(s) from the County GIS or Road Department for any access points coming off County maintained roads. Additionally, Lots 1 and 2 will be limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road. 15. Thirty feet of Axtell-Anceny Road west of centerline shall be dedicated to the public for the entire length of the development. 16. All areas of the public right of way disturbed during construction activities shall be sodded or reseeded. 17. Applicant shall pay road impact fees in accordance with the Gallatin County Road Impact Fee standards. 18. Applicant shall pay fire impact fees in accordance with the Gallatin County Fire Impact Fee standards. 19. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Gallatin Gateway Fire District. Applicant shall provide a final subdivision plat to the Gallatin Gateway Fire District and shall provide written verification from the District that all fire protection requirements have been met. ~~20. Applicants shall provide a mitigation plan for sheriff services that is acceptable to the County Commission.~~ 21. Lots 1 and 4 as shown on the preliminary plat shall be aggregated into one lot for the final plat. 22. Applicant shall have up to three (3) years to complete these conditions and apply for final plat approval. The applicant's representative Steve Rude, Gaston Engineering summarized the history of the proposal and pointed out similarities in the surrounding area which were created by COS exemptions. He pointed out conformance with issues that staff found to be relevant in assessing the proposal with the Gallatin County Plan. He noted that the Highline Canal blowout was the first since 1939, and that the ditch company was considering lining the ditch with concrete to alleviate the potential for blowouts. There was no public comment. At the

Commissioner's request, Ms. Koozer noted that the applicant did submit an extension agreement. Commissioner Murdock commented that there were tracts around this area created by exemptions however, with this Commission's bias against unplanned development they would not have been approved. Commissioner Mitchell expressed concern with damage caused by the ditch blowout, noting from a county standpoint they are always worried about that ditch. She stated that until the ditch was lined it would be foolhardy to build under it, and given the steepness of the slopes, it was not an area that lends itself to construction. Although staff did their best to mitigate impacts with conditions, she stated that she could not get away from the health and safety issue of the ditch and she could not in good conscience allow anyone to build below it. Commissioner Vincent concurred, adding that sometimes the small minors are more difficult, because they are dealing with individuals, rather than well-funded developers. He stated that they were on solid ground on some issues when weighting the criteria under statute however, the ditch was definitely a problem. Public health, safety and welfare were a critical element, given the location of the ditch on a slope and the relationship with the septic. He commented on law enforcement, leapfrog development, and clustering. He believed at some point if the concerns of ditch were addressed, there would be some possibilities. However, at this point he noted that he would be inconsistent if he voted for this application. Commissioner Murdock concurred with the Board, adding that he had a problem with a County Master Plan prospective, in that it is in his opinion leapfrog and sprawl. He commented that it could be a possibility if they put together a neighborhood plan, which has a definition under the Road Policy Act, a grass root-zoning district. He also suggested researching transferable development rights and contacting the Open Lands Board. He explained if they approved this application, that they would have to approve everyone along the bench in order to be consistent. He also concurred that the ditch was a public health and safety concern. **Commissioner Mitchell moved to deny the Huyser Minor preliminary plat, based on the testimony given by the Commission as findings, summarizing the fact that this minor does not meet the criteria as spelled out in State Statute, Gallatin County Master Plan, and the Gallatin County Subdivision Regulations, as offered in the previous findings. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Jennifer Koozer reported on the public hearing and consideration of a request for preliminary plat approval by C & H Engineering, Inc., on behalf of James and Renee Hogin for the Hogin Minor Subdivision, described Lot 5, COS 525B, in the SE ¼ of Section 9, T3S, R4E, PMM, Gallatin County, Montana, and is generally located at the intersection of Gateway Foothills Road and Shadoan Ditch Road, west of Gallatin Gateway. The request is to subdivide a 25-acre parcel into two residential lots. Ms. Koozer noted that this proposal was in an area with precedent for denial, partially due to the location, much the same as the prior application. The Noble Ditch traverses the site. A high-voltage power line borders the site and North Western Energy reviewed the plat and indicated that no structures should be built within the designated power line easement. Additionally, any structures or roads must be constructed in accordance with North Western Energy's standards, rules, and regulations, as well as the National Electrical Safety Code rules and regulations with regard to setbacks. A courtesy notice was sent to adjacent property owners. On May 28, 2002, the Planning Board reviewed the proposal and heard comments from the applicant's representative. The Board discussed issues related to water rights and the irrigation ditch and suggested an additional condition regarding ditch easements. The Board recommended approval 5:1, with the conditions suggested by staff as modified during discussion. One letter was received after the meeting raising concern about quality of life and water quantity and quality. This application had similar County Plan considerations, as the prior application such as agriculture and leapfrog. A covenant was suggested acknowledging that the NRCS Septic Field Limitations map indicates that much of the site may have severe limitations due to wetness, poor filter and slow perc. NRCS Seasonal High Water Table map indicates that much of the site may have groundwater at 3-6 feet, with "rare flooding". This is very similar to the prior application, without the sloping. Ms. Koozer briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with highlighting the suggested conditions. The Gallatin County Commission has one determination to make with this application: A determination as to whether to approve the proposed subdivision. The basis for the decision shall be whether the preliminary plat, and additional information demonstrate that the subdivision meets: The requirements of the Montana Subdivision and Platting Act; The Gallatin County Subdivision Regulations; and The Gallatin County Plan. If the County Commission approves the subdivision, the following conditions for final plat approval are suggested (underline and strikeout reflect Planning Board's recommendations for modifications to staff-suggested conditions): 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 3. One copy of the restrictive and protective covenants encumbering the real property contained within the subdivision shall be

submitted to the Gallatin County Planning Department for joint review by the Planning Department and County Attorney's Office. The final plat application shall include written approval of the covenants by the County Attorney's Office. 4. One copy of the following documents shall be submitted to the Gallatin County Attorney's Office. The final plat application shall include written approval of these documents by the Gallatin County Attorney's Office. a. Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the property owners' association. c. Certificate of a licensed title abstractor. 5. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 6. All utility easements shall be shown on the final plat. With the exception of the high voltage power line, utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 7. For the high voltage power line, final plat shall include a utility easement with the width required by Northwestern Energy. Applicant shall provide written confirmation of Northwestern Energy's approval of the easement width. 8. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. 9. The final plat shall include an irrigation ditch easement for the Noble Ditch, with a width of at least 5 feet on one side and at least 15 feet on the other side, or more if required by the ditch owner. 10. Applicant shall obtain written confirmation from the Noble Ditch owner(s) stating that the proposed development and maintenance easements will not create adverse impacts on the operation and maintenance of the ditch within the subdivision. 11. The subdivider shall file and record ditch easements in accordance with Section 76-3-504(10) MCA. 12. Applicant shall record the following covenants on or with the final plat: a. *The control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b. *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* c. *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d. *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* e. *No structures shall be built within the high voltage power line easement. All roads, driveways and structures shall be built in accordance with NorthWestern Energy's standards, rules and regulations, as well as the National Electrical Safety Code rules and regulations.* f. *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3.* g. *Lot owners acknowledge the presence of an active ditch and high groundwater. Lot owners recognize that flooding and high groundwater are possible and accept responsibility for the location of structures and improvements.* h. *Lot owners shall not interfere with agricultural water user facilities nor remove water without deeded water rights approved by the Montana Department of Natural Resources and Conservation.* i. *Lot owners acknowledge and affirm the rights of agricultural water users and the jurisdiction of applicable federal, state and local agencies with respect to activities within all watercourses.* j. *No maintenance or improvements shall be performed on any watercourse without written permission from the owner of the waterway.* k. *No fences, bridges or other structures shall be constructed within the irrigation ditch easement without the prior consent of the owner(s) of the Noble Ditch.* l. *The artificial feeding of all wildlife and big game shall be prohibited.* m. *All garbage shall be stored in animal-proof containers or be made unavailable to animals.* n. *Pets shall be controlled by each homeowner, and not allowed to roam at large.* o. *Owners acknowledge that wildlife damage to landscaping and other property may occur. Owners shall accept that risk and shall not file claims against any governing body for such damages.* ~~p. *Fencing in excess of 4 feet in height along exterior lot boundaries shall be prohibited.*~~ q. *All new lot accesses shall be constructed to County standards as specified in Section 7.G.2 of the Gallatin County Subdivision Regulations.* r. *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 13. Applicant shall obtain encroachment permit(s) from the County GIS or Road Department for any access points coming off County maintained roads.

Additionally, Lots 1 and 2 will be limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road. 14. Thirty feet of Shadoan Ditch Road east of centerline and thirty feet of Gateway Foothills Road north of centerline shall be dedicated to the public for the entire length of the development. 15. All areas of the public right of way disturbed during construction activities shall be sodded or reseeded. 16. Applicant shall pay road impact fees in accordance with the Gallatin County Road Impact Fee standards. 17. Applicant shall pay fire impact fees in accordance with the Gallatin County Fire Impact Fee standards. 18. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Gallatin Gateway Fire District. Applicant shall provide a final subdivision plat to the Gallatin Gateway Fire District and shall provide written verification from the District that all fire protection requirements have been met. 19. ~~Applicant's shall provide a mitigation plan for sheriff services that is acceptable to the County Commission.~~ 20. Applicant shall have up to three (3) years to complete these conditions and apply for final plat approval. The applicant's representative Mark Chandler noted that most of the denied subdivisions listed in the staff report are fairly far away from this site with the exception of the Qtatraro Subdivision. He believed this was a low impact two lot minor. He submitted Exhibit "A", a map showing a land division pattern from Gallatin Gateway going west to this site. He suggested changing the language in the condition regarding the North Western Energy easement, stating that it should be a recorded document specifying the width of the easement and was not to be negotiated. There was no public comment. Commissioner Vincent questioned issues that distinguished this application from the previous one, noting that this one is flat and relatively consistent with other minor subdivision approved in this area. Commissioner Murdock stated that he had two concerns with the prior application, and although he did not have the concern with public health and safety on this one, his feelings on the Master Plan were identical. He felt the same way about this application with regards to Goal I of the Master Plan-Locate residential development next to existing development when possible; and Goal VI-Discourage leapfrog residential subdivision to strengthen the visual distinction between city and countryside, and retain exiting agriculture. He added that although they were proposing to put development where other development exists, it was unplanned. He again suggested if the neighborhood wanted a neighborhood plan, or a zoning district he would go along with it as long as the public safety was met. Although the geography in this proposal was more flat, Commissioner Mitchell commented that when the ditch blew out, it went way out to flatter areas, and to her this would be still building below the ditch. She had concerns with high groundwater, as well as Master Plan concerns. She believed with a good plan the neighborhood could be a highly valuable area. **Commissioner Murdock moved to deny the two-lot Hogin Minor Subdivision for all the reasons stated in discussion: non-compliance with the Growth Policy and the public health, safety and welfare concerns in the Subdivision Regulations and MCA. Seconded by Commissioner Mitchell. Commissioners Murdock and Mitchell voting aye. Commissioner Vincent voting nay. Motion carried.**

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Gallatin County Planner W. Randall Johnson reported on the public hearing and consideration of a request for preliminary plat approval for Gaston Engineering, on behalf of Doug Espelien for the Amended Plat of Tract 19A-1 of the Ross Creek Subdivision to subdivide an existing 10-acre lot into two 5-acre residential lots. The property is described as Tract 19A-1 of the Amended Plat of Tract 19A of the "Amended Subdivision Plat of Tracts 18, 19, and 20 of Ross Creek Subdivision" and Tract 20B of the "Amended Plat of Tract 20A and a portion of Tract 21 of Ross Creek Subdivision" situated in the NE ¼ of Section 34, T1N, R5E, P.M.M, Gallatin County, Montana. The property is generally located at the southeast corner of the intersection of Springhill and Penwell Bridge Road. The Ross Creek Subdivision was platted in 1973. The major subdivision consists of 48 lots, each lot being 10+ acres in size. The applicant made application to re-subdivide Tract 19A-1 through the major subdivision review procedure. Legal notice was published in the High Country Independent Press, and adjacent property owners were notified by certified mail. There were no comments regarding the application. Mr. Johnson noted that there have been about 20 amended plats within this subdivision, splitting 10 acres into two lots. The applicant requested a variance from the Road Design Standards of the Gallatin County Subdivision Regulations, requesting not to pave Clearview Drive to County Standards. According to the applicant, the existing 10-acre lot already accesses Clearview Road, and the new lot will access Springhill Road, thereby avoiding additional daily trips on Clearview Road. Section 7.H of the Gallatin County Subdivision Regulation Regulations requires roads within subdivisions that will carry greater than 100 trips per day shall be built to the paving standards in the Regulations. Trips per day are calculated based on an average of eight trips per day per household. Clearview Drive, which will be the interior subdivision access road to Lot 2, currently exceeds 100 trips per day. Mr. Johnson briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with highlighting the suggested conditions. The property is part of an existing 48 lot residential subdivision, and is not within a critical wildlife habitat area. He noted a letter received from the Montana Department of Fish, Wildlife and Parks providing comments on the

proposal. The proposed subdivision was reviewed for conformance with the Gallatin County Plan. The development proposal appears to comply substantially with the Plan according to the following findings: a. The proposed subdivision is an "infill" development; b. The proposed development is located near and adjacent to existing residential use; c. The property is not located within a critical fish or wildlife habitat area. Mr. Johnson pointed out distinction between this application versus the prior two minor subdivisions that were denied. On May 28, 2002, the Planning Board considered this application. In regards to the request, the Board passed a motion to recommend approval, finding that strict compliance with the paving requirements would result in undue hardship for the applicant, and the paving of Clearview Road is not essential to the public health, safety, and general welfare. The Board recommended approval of the proposed amended plat with a 4:2 vote. The County Commission needs to make the following determinations: 1. A determination as to whether or not the requested variance should be granted; 2. A determination as to whether or not the application complies with the Gallatin County Plan; 3. A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and 4. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the preliminary plat application, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. A 35-foot stream setback from the high water mark of Ross Creek shall be delineated on the final plat. 4. A minimum 20 foot wide irrigation ditch maintenance easement; 15 feet on one side and 5 feet on the other side, shall delineated on the final plat. 5. The subdivider shall file and record ditch easements in accordance with Section 76-3-504(10) MCA. 6. A one (1) foot "no access" strip shall be delineated on the final plat for both Lots bordering Springhill Road, with the exception of the existing approach for Lot 1. 7. The final plat shall contain a statement requiring lot access to be built to the standards of Section 6.E.18 (a) of the Gallatin County Subdivision Regulations. 8. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 9. The subdivider shall provide a water supply for fire protection in accordance with the Gallatin County Subdivision Regulations and the Belgrade Rural Fire District. The subdivider shall obtain written verification from the fire district that the required water supply and all fire safety provisions have been provided. 10. The subdivider shall record a waiver of right to protest creation of rural improvement districts with the final plat. 11. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 12. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 13. Two copies of the preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the certificate of title abstract prior to final plat approval. 14. The subdivider shall have three (3) years to complete the above conditions and apply for final plat approval. Steve Rude, Gaston Engineering confirmed that they were in agreement with the conditions. Further discussion took place with regard to the road, the variance and the possible abandonment of the road. Belgrade Rural Fire District Assistant Chief Brian Connelley commented that several of these lot splits have come before the Commission with the same requirements being put upon them, and to date he has not received one set of residential sprinkler plans. He further commented that there is no water supply and that Clearview Road is well over the County Standard, both in length and the number of lots and access is very restricted. Therefore, access and water supply are not being met, as the conditions cannot be enforced after final plat approval. He added that even if condition #9, with regards to water supply were met, there would still be the access issue. He noted that the Subdivision Regulations state, anything more than 5 lots cannot be on a cul-de-sac and needs a secondary access. He stated that Clearview Drive is the only access for nearly 18 homes. Discussion took place with regards to conformance with public health and safety, as this is an older subdivision with a cul-de-sac that exceeds present standards for length. Mr. Rude reiterated that while they are creating two lots, this lot already accesses Clearview Road, and the creation of Lot 1, accesses onto Springhill Road, so he believed they were not adding any additional burden onto Clearview Road that does not already exist. He stated that originally he wrote

up a variance request letter to the Planning Department for that cul-de-sac length, and was told that it did not need to be done this time. Mr. Johnson replied that he did that because it was already there and platted as such, and because it was unclear he gave the applicant the benefit of the doubt. Commissioner Murdock did not have a problem from the Master Plan perspective for all the reasons Mr. Johnson put in the staff report. However, he did have a problem with the variance and the cul-de-sac, even though Mr. Rude relied on other information. He had concern for Mr. Connelley's concerns of access and water, although he did not believe they could deny this application because of the lack of enforcement of the conditions. Commissioner Mitchell was not in support for the following reasons: There is a lot of water running through the area; bad corner for adding more density; soils not suitable for building or septic systems; and access. Commissioner Mitchell moved to deny the preliminary plat request of the Ross Creek Subdivision Tract 19A-1, amended plat, finding that it does not meet State Statutes, Subdivision Regulations and the Gallatin County Master Plan for the reasons stated previously. Seconded by Commissioner Vincent. Commissioner Murdock was not in support of the motion, stating that he preferred to ask the developer to grant an extension in order to work with the Planning Department on the access and the cul-de-sac variance. Commissioner Vincent agreed. Mr. Rude questioned if the Commission would support a difference variance. It was determined that it would be subject to a public hearing. Mr. Johnson suggested a continuance, in order to prepare information regarding the variance on hardship as identified by the applicant and bring forward to the Commission as an additional finding and consideration. Further discussion took place regarding the homeowners association taking care of the access and paving. Mr. Johnson agreed that they were not just looking at impacts to this one lot, it is an issue that applies to the entire subdivision, such as adequacy of roads, access and fire protection. He agreed it would be good to see entire subdivision take a community approach and invest in these improvements. Commissioner Mitchell suggested sending a letter to the homeowners association stating the Commission would not consider any further subdivision within the subdivision unless these problems are corrected. Mr. Rude consented to the continuance. Commissioner Mitchell withdrew the motion. Commissioner Vincent withdrew the second. **No action taken.**

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Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a request for preliminary plat approval for Potter-Clinton Development on the River Rock Major Subdivision, "The Traditions", and "River Rock North", proposing the creation of 258 lots on approximately 61 acres, in two developments. All lots would be served by central water and sewer systems. Property is zoned as follows: River Rock North: Residential-Mobile Home District (RMH); and River Rock Traditions: Residential-Single-Family, Medium Density (R-2). The proposal complies with zoning. The property is located in the River Rock Zoning District (formerly the Royal Village Zoning District). Property is legally described as follows: River Rock North: SE ¼ and the SW ¼ of Section 3, T1S, R4E, PMM, Gallatin County, Montana; generally located north of Amsterdam Road, west of Thorpe Road, approximately two miles west of Belgrade. Ms. Madgic noted an error in the staff report changing the number of lots from 257 to 258. Legal notice was published in the High Country Independent Press and notice was sent to adjacent property owners, and there was no response. She briefly summarized the history of the proposal and the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. She noted that everything was pretty straightforward with the exception of some fairly consistent complaints regards weeds and garbage. Because of those concerns the applicant was asked to revisit the Memorandum of Understanding approved 3 years ago regarding the Weed Control District. It was pointed out that the applicant was responsible for providing an updated traffic impact study, and also noted an additional condition was added concerning Amsterdam Road and the fact that improvements have to be in place prior to any more final plats. The Sheriff provided a letter with regards to law enforcement mitigation indicating that the development would be responsible for approximately \$432,000, in sheriff mitigation fees. The Gallatin County Commission has one determination to make with this application: A determination as to whether to approve the proposed subdivision. The basis for the Commission decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations and River Rock Zoning Regulations. If the County Commission decides to approve the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant shall obtain approval from the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. 3. One copy of the restrictive and protective covenants encumbering the real property contained within the subdivision shall be submitted to the Gallatin County Planning Department for joint review by the Planning Department and County Attorney's Office. The final plat

application shall include written approval of the covenants by the County Attorney's Office. 4. One copy of the following documents shall be submitted to the Gallatin County Attorney's Office. The final plat application shall include written approval of these documents by the Gallatin County Attorney's Office. 1) Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana. 2) Bylaws controlling the operation of the property owners' association. 3) Certificate of a licensed title abstractor. 5. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 6. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 7. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor. 8. Applicant shall record the following covenants with the final plat: a) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* c) *Individual lot access from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulation* d) *The property owners' association shall be responsible for maintenance of interior subdivision roads.* e) *All fences bordering agricultural lands shall be maintained by the property owners' association, in accordance with state law.* f) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* g) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 9. Road names for interior roads shall be approved by the County GIS Office. 10. Encroachment permit(s) shall be obtained from the County GIS Office for any access points coming off of County-maintained roads. Additionally, all internal lots shall be limited to one driveway access. Each access shall be at least 75 feet from the nearest intersecting County Road. 11. A detailed signage and drainage plan shall be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 12. A no-access strip is required along all lot boundaries that border County-maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County GIS Office. 13. All interior roads shall be built to County paved standards, and have a 60-foot right-of-way, dedicated to the public, unless other County road standards apply. 14. A detailed *current* traffic study shall be prepared to identify off-site traffic impacts on the following roads: Thorpe and Amsterdam roads. The study shall identify primary and secondary access roads, as well as collectors and arterials in the area of impact. Findings from this study may result in the need for additional right-of-way along certain County-maintained roads dedicated to the public. 15. Applicant shall improve Amsterdam Road, the primary access road to the subdivision, to County standards, or a rural improvement district shall be established to accomplish such improvements prior to final plat approval. 16. Applicant shall meet with the County Road Department prior to start of any construction. 17. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996). Such inspection and certification shall be provided to the County Road Department in writing. Final approval shall not be given until this documentation is received. 18. Applicant shall supply a two-year written warranty from the contractor with respect to paving the subdivision roads. This warranty shall be submitted to the County Road Department prior to final

approval. Striping shall be included after the paving of any County-maintained roadway. 19. The property owners' association shall be responsible for maintenance of all interior roads. A copy of the property owners' association by-laws is required to be submitted to the County Road Department prior to final approval. 20. The property owners' association shall be required to enter into a joint agreement with the property owners' association of River Rock North Phase 1 and Royal Village for the maintenance of any interconnecting roads. 21. Forty-five feet of Thorpe Road west of the centerline shall be dedicated to the public for the entire length of The Traditions development. 22. A waiver of protest for creation of future RIDs shall be required. 23. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 24. All areas of the public right-of-way disturbed during construction activities shall be replaced with new sod or reseeded as appropriate. 25. Applicant shall make payment of fire protection impact fees in accordance with the Subdivision Regulations. 26. All requirements of the Belgrade Rural Fire District shall be met prior to final plat approval. The fire district shall review and approve all fire protection measures prior to final plat approval. A copy of the final plat shall be provided to the Belgrade Rural Fire District. 27. The water main system and fire hydrants servicing all lots shall be installed. 28. The community sewer system, including all sewer mains and sewer service serving all lots shall be installed. 29. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Madgic suggested changing condition #15 to read as follows: Applicant shall improve Amsterdam Road, the primary access road to the subdivision, acceptable to the county Road Department, or a rural improvement district shall be established to accomplish such improvements prior to final plat approval; and adding condition #30: Applicant shall mitigate impacts to the Sheriff's Department as acceptable to the County Commission. The applicant's representative Jason Leep explained that the application for "River Rock North" was previously submitted and approved as River Rock Phases 3B and 3C, a subdivision created for rent or lease. This application is to re-approve the subdivision as a fee simple subdivision, so the lots can be sold individually. He stated that "The Traditions", was 170 R-2 single-family lots, providing more of an architecturally theme neighborhood. Mr. Leep stated he was in agreement with the conditions; although he was hesitant agreeing to condition #30, without know what it meant. He also was not in agreement to volunteer the mitigation fee suggested by the Sheriff. He believed they have done what they said they would do regarding the sheriff mitigation, by dedicating space at no charge in the River Rock Community Center for a sheriff satellite office or however deemed appropriate by the Sheriff. To date they had not received a response from the Sheriff on that issue. Mr. Leep noted that they have on site management and are currently discussing the possibility of starting a safety committee or neighborhood watch. Public comment: Sonya Berg was in support of the subdivision, although she had concern with weed control and solid waste disposal. In response, Mr. Leep commented that the on site manager picks up garbage and they have the builders post a deposit for clean up. With regard to weeds, he noted a letter was submitted from Western Conservation Services stating that they are in compliance with weed control. Further discussion took place with regards to security. Given the density of the project and pointing out that the real costs in law enforcement are labor, Commissioner Mitchell suggested that the applicant contract with the Sheriff's Department or some other security firm to provide at least one 24 hour person for security purposes before build out. Commissioner Murdock concurred. Mr. Leep stated that currently they have three separate staff people that live on site, that presently patrol 24 hours. Commissioner Murdock stated that maybe that would work for the Sheriff. He suggested, adding a condition that would state that the applicant would provide 24/7 security acceptable to the Sheriff's Department. Mr. Leep noted that there is nothing currently in the Subdivision Regulations stating that there has to be an impact fee to the Sheriff. He suggested adding a condition that would state that they already agreed to be included into whatever fee increase the County finally adopts with regard to the Sheriff mitigation. Commissioner Mitchell replied that she was trying to take them out from underneath the impact fee, and give this development control over its own law enforcement issues to a certain extent. She noted that documenting their current patrol of the area, and insuring the fact that it will remain a permanent part of the infrastructure is what she was suggesting. Commissioner Murdock stated he was not going to impose an impact fee, for the reasons stated, although they have to mitigate public safety, health and welfare concerns. Mr. Leep stated that he would not object to a condition that ties the property owners association into permanently having a Sheriff liaison in the area that is in constant contact with the Sheriff's Department. Commissioner Vincent concurred, noting that it was imperfect although given the regulations he was in agreement. He added that if a problem occurred, this would not preclude the applicant from working something out with the Sheriff that would be acceptable. Ms. Madgic suggested the following condition: Applicant shall prepare and implement an onsite 24/7 security mitigation plan to be reviewed by the appropriate law enforcement agencies and approved by the Gallatin County Commission. Commissioner Vincent stated without a policy, whatever they review and approve would not contain any arbitrary assessment. **Commissioner Mitchell moved to approve the request for preliminary plat for the River Rock Major Subdivision, "Traditions" and "River Rock North", finding that it meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations, the River Rock Zoning Regulations, and the conditions as suggested by staff, with changes to condition #15**

and the addition of condition #30. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a request for preliminary plat approval for Potter-Clinton Development on the amended plat of the Royal Village Subdivision. The amended plat would re-arrange lots within a four-acre section of Blocks 6 and 7, reducing the total number of lots by eight, from 43 lots to 35 lots. Applicant is proposing to aggregate lots, re-arrange lot lines to increase lot size, and to provide for additional road right-of-way. The property is in the River Rock Zoning District (formerly the Royal Village Zoning District) located in the SE ¼ of Section 3, T1S, R4E, Block 6 and 7, PMM, Gallatin County, Montana: generally located north and south of Warrior Road, west of Thorpe Road, and south of the River Rock Villas. The site is zoned Residential-Single-Family, Medium Density (R-2). The proposed amendment complies with the zoning designation. As required, certified mail was sent to adjacent property owners and legal notice was posted twice in the High Country Independent Press. To date there has been no response. Ms. Madgic briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with highlighting the suggested conditions. The County Commission has one determination to make with this application: A determination as to whether the proposed amended plat should be approved. The basis for the County Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Commission decides to approve the amended plat, the following conditions are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 3. One copy of the restrictive and protective covenants encumbering the real property contained within the subdivision shall be submitted to the Gallatin County Planning Department for joint review by the Planning Department and County Attorney's Office. The final plat application shall include written approval of the covenants by the County Attorney's Office. 4. One copy of the following documents shall be submitted to the Gallatin County Attorney's Office. The final plat application shall include written approval of these documents by the Gallatin County Attorney's Office. 1) Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana. 2) Bylaws controlling the operation of the property owners' association. 3) Certificate of a licensed title abstractor. 5. Applicant shall record the following covenants on or with the final plat(s): a) *The property owner shall be responsible for the control of County-declared noxious weeds.* b) *Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.* c) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* d) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* e) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* f) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* g) *All garbage shall be stored in animal-proof containers or be made unavailable to animals.* h) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission* 6. All utility easements shall be shown on the final plat (as allowed under variance). Utility easements shall be sixteen (16) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* Discussion took place with regard to adding impact fees and sheriff mitigation.

Mr. Leep noted these lots were recently zoned from RMH to R-2, and they will be part of the "Traditions" and covered by the same architectural controls. Their reasons for doing this is to get dedicated right-of-ways connecting the two neighborhoods, and to abandon some unnecessary utility easements and side lot lines that are no longer needed. Public comment: Sonya Berg commented on the impact that additional solid waste would have on the county. **Commissioner Vincent moved to approve the amended plat for the Royal Village Major Subdivision, finding the testimony substantiates compliance with the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations, and the River Rock Zoning. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Murdock announced the public hearing and consideration of the second reading of a speed reduction ordinance for roads in the Outlaw Country South Subdivision. There was no public comment. **Commissioner Vincent moved to adopt Ordinance #2002-03. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 3:51 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 18th DAY OF JUNE 2002

The meeting was called to order by Chairman Bill Murdock at 9:07 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

JUNE 10, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, County Attorney Marty Lambert, Sheriff Jim Cashell, Auditor Joyce Schmidt, Road and Bridge Superintendent Lee Provance, Commission secretary Rose Blaskovich, and guests Nick Gevock with the Bozeman Daily Chronicle and Dennis Carlson. Plaques were awarded to Gene Houghtaling and Larry Otnes for the many years of services to Gallatin County.

The Commissioners considered the approval of an asset disposal request from the Road Department for a water pump. Commissioner Mitchell made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye.

The Commissioners discussed the Detention Center and Law and Justice Site analysis. Commissioner Vincent stated that regardless of where a new detention center is located, the fact exists that Gallatin County will be adding another District Court Judge in the near future and consideration of space for this individual and their staff needs to be given. Commissioner Vincent suggested that the Commission should agree to pay \$4000 to Dick Prugh to complete a study/cost analysis as to whether it would be less expensive to remodel the current Law and Justice Center or build a new building. He stated that this would be a serve to the taxpayers and time is of essence as the ballots will be mailed soon and the information is vital to the voters prior to voting. Commissioner Vincent made a motion to authorize up to \$4000 to be used for a cost analysis by Dick Prugh on the above referenced subject. Commissioner Murdock seconded the motion. In discussion it was suggested the money to fund this expenditure could come from the general fund or PILT monies. Commissioner Mitchell noted that she would not support this as Prugh and Lenon has been paid to do just this thing in the past and the Commission never received the analysis from them. She stated that she would prefer to have another firm who is not local do the analysis if the group feels one is needed. Commissioner Mitchell also stated that if the same local firm completes the analysis, the same information would be given, with nothing new offered. Commissioner Vincent stated that time is of essence and there is not time to bring in a new, outside firm. Commissioner Murdock noted that Prugh and Lenon were hired in about 1997 to do the first analysis – RFP’s went

out and interviews were held – Prugh and Lenon were hired. He stated that he is concerned that they may still be under contract. Commissioner Mitchell stated that Prugh and Lenon were told to stop work on the Detention Center. Commissioner Vincent reiterated that the issue at hand is a need for more space for a new judge. Relative cost must be determined prior to the jail issue vote, not after. Commissioner Mitchell explained that she felt the new building could be remodeled with no problem and Prugh and Lenon is just pushing for a new building on the Oak Street site. Commissioner Murdock stated that four different committees have said no to remodeling the L&J and that a new building is the way to go. Commissioner Mitchell stated that Prugh and Lenon have informed these four committees. Commissioner Vincent stated that the issue is the cost, not location. Commissioner Mitchell stated that the voters would not be given an objective analysis if Prugh and Lenon is used again. Commissioner Vincent stated that he would contact Dick Prugh given the time situation. The motion and second were amended to ask Prugh and Lenon to do the analysis if they can have it done no later than the date the ballots are mailed out. Commissioner Mitchell stated that she would not support unless an outside firm is hired to do the work. Commissioner Murdock and Vincent voted aye, Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

The Commissioners discussed the proposal by MACo to hire an ITS person. Commissioner Mitchell drafted a letter to MACo expressing Gallatin County's opposition to this hire. It was agreed that Ed Kawa's input would be beneficial. Commissioner Vincent made a motion to approve the letter to MACo regarding the hiring of an ITS professional, pending Mr. Kawa's approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

JUNE 11-12, 2002

- The Commissioners conducted regular County business.

JUNE 13 2002

- The Commissioners attended a special meeting for the purpose of discussing Gallatin County staff salaries. In attendance were Commissioner Murdock and Mitchell, Road and Bridge Superintendent Lee Provance, and Human Resources Director Randy Kuyath. Commissioner Mitchell made a motion to approve a 4% increase in salaries for all Gallatin County employees with the understanding that it is subject to final approval and is preliminary at this time pending consultation with the Fiscal Officer. Commissioner Murdock seconded the motion. Commissioner Vincent was absent, however, asked that it be noted that he is support of the action. All voted aye. Motion carried with a vote of two to zero.

JUNE 14, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated June 12 and 13, 2002 in the amount of \$238,129.94.
2. Request for Mortgage Survey Exemption for Charles W. Briggs III, located in the SE ¼ of Section 4, T2S, R4E (2400 Ward Road). Gallatin County Planner Sean O'Callaghan reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Relocation of Common Boundary Lines Exemption for Soldiers Chapel Corporation/Robert Kallestad, located in Section 32, T6S, R4E (Intersection of US 191 and Montana 64). Gallatin County Planner Sean O'Callaghan reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundary Lines Exemption for Warren and Pam Pattison and Mark and Renee Pattison, located in the NW ¼ of the SW ¼ of Section 14, T4N, R4E (West of Maudlow). Gallatin County Planner Sean O'Callaghan reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. **Commissioner Mitchell moved to approve the consent agenda, as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Commissioner Murdock noted that regular agenda Item #4, public hearing and consideration of a resolution for the sale of bonds for Looking Glass RID, would be continued until June 25, 2002, due to a publication problem. **No action taken.**

Commissioner Mitchell reported on the public hearing and consideration of the second reading of a speed reduction ordinance for a portion of Talc Road, setting the speed limit to 35 MPH. The first reading was held June 4, 2002. Public comment: Don Jones spoke in support of the ordinance. **Commissioner Vincent moved to adopt Ordinance #2002-04. Seconded by Commissioner Mitchell, noting that the ordinance will go into effect 30 days from today. None voting nay. Motion carried.**

Commissioner Vincent reported on the public hearing and consideration of the second reading of a speed reduction ordinance for Linney Road, setting the speed limit to 45 MPH. The first reading was held June 4, 2002. There was no public comment. **Commissioner Mitchell moved to approve Ordinance #2002-05. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Auditor Joyce Schmidt reported on the Auditor's quarterly report ending March 31, 2002. Ms. Schmidt pointed out four outstanding items, of which three had a tentative goal of June 30, 2002, in order to resolve. The following have been resolved: County Attorney's NSF Check Program and the Rest Home Resident Trust Account. She will continue to work on the Sheriff's Inmate Trust Account although, she was not positive it would be resolved by June 30, 2002. There was no public comment. **Commissioner Mitchell moved to approve the Auditor's quarterly report, as presented. She modified the motion to accept the Auditor's quarterly report. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Health Officer Stephanie Nelson reported on the public hearing and consideration of a resolution of intent to amend the Maternal Child Health Grant, Fund No. 2273 for the County Health Department budget to include unanticipated grant revenues of \$6,995. A public hearing is scheduled for June 25, 2002. There was no public comment. **Commissioner Vincent moved to adopt Resolution of Intent #2002-71. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of a resolution to increase the Gallatin County operating budget to include unanticipated revenues for enforcing underage drinking law programs. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-72. Seconded by Commissioner Mitchell, noting it was ironic that the Montana Board of Crime Control has put \$125,000 into a program like this when they are cutting the Juvenile Detention budget. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of the Gallatin County Landfill #1, 2002, Phase 2 seal liner expansion bid opening. It was noted that there were 7 proposals received by the deadline, June 17, 2002, at 5:00 P.M. The project will be for the preparation and installation of a 7-acre expansion of the county landfill in Logan. Project Engineer Greg Underhill opened the bids, acknowledged the bid bond, statement of qualifications, and the total bid as follows: Bainter Backhoe & Cat Service-Livingston, \$864,119.09; TMC, Inc-Belgrade, \$1,044,435.00; JTL Group, Inc-Billings, \$984,601.90; A.M. Wells, Inc.-Norris, \$898,583.01; Schumaker Trucking & Excavating Contractors, Inc.-Great Falls, \$853,439.10; Williams Plumbing & Heating, Inc.-Bozeman, \$908,669.00; and Pumco, Inc.-Lolo, \$1,112,242.30. Mr. Underhill took the bids under advisement and will return on June 25, 2002, to make a recommendation. Mr. Watson noted that Gallatin County Fiscal Officer Ed Blackman would need to respond to the Commission and recommend a source of funding for the bid. **No action taken.**

Consultant Dale Beland reported on the public hearing and consideration of acceptance of BRW Work Products for the Big Sky Coordinated Transportation Study. In summary, Mr. Beland was delivering the work products of the consultant hired by Gallatin and Madison Counties, and conferred with by the MDOT, so the database could be used in the Commission's consideration of future development impacts in the Big Sky area. This was an effort to involve all the major property owners in Big Sky, along with the two counties and MDOT to try and figure out the projected impact of developments in the area, define the proposed intentional trip generation caused by that land development, and work out and equitable means of

mitigation costs. A significant amount of work was accomplished although; he noted that they were unable to reach an agreement with MODT on the allocation of tasks, as there was a major difference of opinion between the parties doing the study. It was the position of MDOT to not assume any responsibility for upgrading Highway 64. The position of the advisory committee was that there should be some continued participation by the State consistent with their historic contribution toward maintenance of improvement of similar studies. At that point they had run out of time and the State declined to extend the funding agreement. Mr. Beland's expectation was that the Planning Department would take those study results, if directed by the Commission and use the definition of projected development impacts, which would be the basis for negotiation and the mitigation process for subdivision proposals. He noted that all the participants were aware of the analysis and the results, and that there was no interest on the part of the State to assist in paying for those improvements. He proposed that the next step is that the owners will have to figure out how much they are prepared to pay. Commissioner Murdock asked if there were a formula to use as basis, so they would know with some defensible way how much to charge developers for traffic mitigation. Mr. Beland's opinion was that they could rely with confidence upon the technical analysis and accept the projection of development impacts although, some members of the advisory committee would say because of changes in the last six months that there needs to be some tweaking of the numbers. Public comment: Paul Pariser, representing Firelight Meadows spoke regarding the agreement entered into with the County for a 10 year letter of credit with final plat, and the request of Mr. Beland, that he enter into an agreement with BRW, Inc. to complete an impact study for Firelight Meadows. He requested that the Commission accept the amount noted by BRW and to release their letter of credit. Commissioner Murdock explained that they would need to confer with the Planning Department, and that the purpose of this hearing was to either accept or reject the draft. Mr. Pariser wanted it made clear that the amendment letter of BRW was part of agreement. Planning Consultant Jim Pepper representing the developers of the Town Center stated that they were very confused about the status of the study, adding that the future of the Town Center depends on a solid transportation plan. He noted the regrettable part was that they were among the membership of the Advisory Committee to over see the study, and the Advisory Committee was not formally notified of the status of the study. He stated that it would be highly improper for the Commission to accept this study at this time, because of the absence of even a cursory review of the Advisory Committee. He could not speak for all the members although, his client had not received notification. Mr. Beland was surprised by Mr. Pepper's comments, and noted that the draft final report which incorporates all the previous products in one document was received and distributed to the Advisory Committee last October. He believed it was not appropriate to say that none of the committee members were aware that this study was included. He mentioned that because the action by MDOT was singular and unilateral, it was then reviewed by the Madison County Commission and all three parties who were the authorized agents of the program agreed with the termination of the product. Therefore, there was no reason for the Advisory Committee to be involved. He stated that the Commission had the opportunity to accept the products as they are and let them stand on their own. He personally saw no real purpose to go back to the Advisory Committee, as there was no study. Commissioner Mitchell noted that the committee members put money into this and selected BRW. Therefore she believed this was a contractual relationship and that it was only fair to get comments regarding the report from the Committee, for the Commission's review prior to acceptance. Commissioner Murdock did not see a problem with that although, he agreed with Mr. Beland that every effort was made and the differences of opinion will not be resolved. Commissioner Vincent preferred to accept the work product with an understanding that the work product itself is open to further consideration, modification, and recommendation by any relevant party. **Commissioner Vincent moved to accept the BRW Work Product with a clear unequivocally understanding that the work product itself is open to further consideration, modification and recommendations by all effective parties. Seconded by Commissioner Murdock.** Commissioner Mitchell was not in support of the motion, stating acceptance implies that it is complete. She believed if they were already using some of the data in the report that there was no harm in putting off acceptance until the committee reviewed it, adding that since they paid and hired the consultant it was only appropriate. Having been the Commission liaison in the meetings, Commissioner Murdock spoke in support of the motion, stating that he knew the work had been done, and all the parties provided input, so there was nothing new that they have not had the opportunity to sit in and participate. It was his conclusion that they will never agree to everything and what has been agreed to gives them basis for future traffic mitigation. Commissioner Mitchell stated that should they get a summarized comment from the committee it would spell out exactly what they don't agree with in summary and it would help with the communication process. Commissioner Vincent noted that the motion itself makes it clear that they have not slammed the door and that they are accepting the work product because it is complete but they are not endorsing any particular aspect of it and it is still open to further consideration, recommendation and modification. **Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a family transfer exemption for Lloyd Flikkema, located in the SW ¼, of Section 17, T1S, R4E (Highline Road). Mr. Karp briefly summarized the proposal, noting that it appeared to be an appropriate use of the family transfer exemption, with no reservations of approval. Lloyd Flikkema was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Vincent moved to grant the Flikkema family transfer exemption, finding that it was consistent with the Montana Subdivision and Platting Act 76-3-201 to 76-3-210. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Murdock suggested moving regular agenda Item #14, public hearing and consideration of a family transfer exemption for Dick and Hermina Visser ahead on the agenda. The property is located in the NE ¼ of Section 11, T2S, R3E (8150 Churchill Road). Gallatin County Planner Sean O'Callaghan was unavailable at the time, so Dick Visser was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Mr. O'Callaghan briefly outlined the history of the parcel, noting that after reviewing the information everything was satisfactory although, he was not present for Mr. Visser's testimony. There was no public comment. **Commissioner Mitchell moved to approve the Visser family transfer exemption, finding that it appears to meet the criteria allowed under the Montana State Statues. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Jennifer Madgic reported on the public hearing and consideration of a resolution to adopt an Interim Zoning District Regulation in the Bozeman Pass area. Ms. Madgic stated that two groups of citizens in the Bozeman Pass area contacted the Planning Department requesting that they review petitions submitted for the creation of zoning districts in this region, and it appeared that the primary motivation for these requests were coal bed methane. Jennifer Read and Gray Davidson represent the groups. Prior to this hearing, Ms. Madgic conferred with the Commission on this issue, and the Commission directed Planning Staff to pursue creation of an interim zoning map and regulation in the Bozeman Pass Area for the purpose of regulating coal bed methane production and development, which is allowed under State Statute 76-2-206 MCA, as an interim form of protection. She pointed out on the map, the interim district if approved, and the existing districts Bridger Canyon, Bear Canyon, and Trail Creek Zoning District. The interim district boundaries fill in the gaps between the un-zoned areas, which is declared as the area of study. The existing zoning districts all require CUP's of oil and gas wells, and the proposed interim district area does not require a CUP for coal bed methane or any sort of oil and gas well. Staff developed the following options for the Commission to consider: Regulation. Adopt interim zoning map and interim regulation for one-year period (with possible one-year extension). Such action would regulate coal bed methane exploration and development similar to the conditional use permit process. Moratorium. Adopt interim zoning map and place a moratorium on all coal bed methane exploration and development for one-year period (with possible one-year extension). Status Quo. Do not adopt interim measures but consider citizen-initiated efforts. The Gallatin County Planning Board met June 11, 2002 to discuss the issue and pass on recommendations to the Commission. The Board was mixed in its opinion regarding such recommendations. Eleven individuals testified at the Planning Board public meeting. Although testimony varied, the majority supported adoption of a moratorium restricting coal bed methane for an interim period. The Board was unable to form a majority opinion on how and if the coal bed methane industry should be regulated. Gallatin County Attorney Marty Lambert submitted Exhibit "A", his memo to the Commission, dated June 18, 2002, noting that notice was properly published twice in accordance to law in the (High Country Independent Press May 23 and 30, 2002-Bozeman Daily Chronicle June 6, 2002). He outlined the memo, which addressed: When interim zoning may be adopted; what process must be followed; the substantive requirements for establishment of interim zoning; Specific objections from J.M. Huber (no emergency-spot zoning-conflict with State permits); and miscellaneous regarding the proposed regulation. He explained that an interim-zoning map or regulation may be adopted if the Commission finds that an emergency measure is in order to promote public health safety, morals and general welfare. Mr. Lambert pointed out the urgency of having a hearing to consider the moratorium, should the Commission desire to impose one because of an August 8, 2002, hearing date set on the application of J.M. Huber before the Board of Oil and Gas Conservation. The same procedural requirements would apply for both the resolution of intention to establish regulations and to impose a moratorium, with regard to publication of notice and protest periods. He commented in reference to a letter dated June 10, 2002, from Scott Zimmerman, on behalf of J.M. Huber, which disputed an emergency, noting that the environmental impact statement ordered pursuant to the Northern Plains Resource case has not been completed. A draft of the proposed impact

statement drew unfavorable comments during the public comment hearing held in Bozeman. He stated that this environmental impact draft was put together with small eastern counties in mind and not Gallatin County residential high dollar property values. He added that State regulation is inadequate to protect individual property owners, noting that water protection is most inadequate. He went into further detail with regard to the rights of surface owners and the damage and disruption that they are faced with should a developer come on their land. He read portions of a letter dated June 17, 2002, from the Chairman of the Board of Oil and Gas Conservation, which also disputed that an emergency existed in Gallatin County for imposing the interim zoning regulation. In conclusion, Mr. Lambert believed that the loyalties of the Montana Board of Oil and Gas Conservation lie within the industry, and any loyalties with the citizens of this county are secondary. He pointed out that the Legislature has acted to define how ground water involved in CBM production must be dealt with. Thus, he suggested the proposed regulation Section (6) 6.3a, second to last bullet, should read, "All ground water involved with coal bed methane wells must be dealt with according to 85-3-521, MCA; An error was noted in Section (4) 4.13, inaccurate description of Surface Water; Section (3) 3.1, suggested changing "natural gas recovery" to read "CBM"; Section (7), suggested second paragraph to read as follows: No conditional use permit shall be issued unless or until such costs, charges, fees or expenses have been paid in full, nor shall any action be taken on proceedings before the Commission, unless or until, applicable charges and fees have been paid in full; and it was suggested a new Section 9, for the Commission to appoint an enforcement agent. His recommendation would be the Planning Director. Ms. Madgic read off the last names of individuals that submitted written public comment as follows: Alexander; Alsaker; American Wildlands-Kmon Davidsom; Barrett; Beswick; Biel; Bishop; Blacher; Brown; Bockhahn; Brelsford; Burke/Trygstad; Clifford; Davis; Dolan; Drake; Eggert; Frohmayer; Glickman; Granger (2); Hackl; Hall; Hamilton; Heck; Hill; Hopkins; Jones; Kempff; Kenworthy; Kruckenberg/Knoll; Hopeman; Maher; Martin; McCune; Procter; Richardson; Roll; Smith; Steele; Stone; Svendsen/Madin; Bud Clinch, Director, DNRC; Dave Ballard, Chairman of the Board of Oil and Gas Conservation; and Dick Dolan, Goetz, Gallik, Baldwin & Dolan. Public Comment: Gray Davidson, submitted Exhibit "B", written testimony; Lark Gould, submitted Exhibit "C", a letter from Attorney Richard J. Dolan, on behalf of the Greater Yellowstone Coalition; Jennifer Read; Traci Isalay, submitted Exhibit "D", written testimony; Susan MacGrath; Jenny McCune, submitted Exhibit "E", written testimony; Gray Davidson read a letter on behalf of James Brooks, submitted as Exhibit "F"; Mary Sadowski; Richard Clotfelter, submitted Exhibit "G", written testimony; Melissa Frost, on behalf of the Greater Yellowstone Coalition, submitted Exhibit "H", written testimony; Emily Stonington; Lila Bishop; Karen Kreiger, allotted her time to Laura Heck; Laura Heck; Don Brelsford, submitted Exhibit "I", data on coal bed methane produced saline-water injection; Jenny McCune read a letter on behalf of Nona Chambers, submitted as Exhibit "J"; Franklin Smith; Jeff Buchowiski; Jeanne Eggert; Sharon Tudor-Isler, submitted Exhibit "K", 33 signatures of real estate agents; Quincy Orhai; Isabelle Carlhian, submitted Exhibit "L", written testimony; Lisa Juliano, email read into the record, submitted as Exhibit "M"; Valorie Drake; and Bruce Gillian. Speaking in opposition to imposing the interim zoning regulations: Susan Aldridge, on behalf of J.M. Huber reiterated that in their opinion, no emergency exists; Don Jones; Phil Olson, also representing Doris Kallstad and Grace Olson; and J.M. Huber Attorney Kemp Wilson commented that it was critical for the Commission to remember that the wells requested, are test wells, and under a specific order of the Board of Oil and Gas Conservation it states that there shall be no production, the wells can not be commercially hooked up, and they are for the purpose of drilling to take water samples, and test for gas content and would then be capped off. He elaborated further on the disposal of the water used in the process. He made reference to a letter from the Board of Oil and Gas Conservation to the Commission, stating their objection to Gallatin Counties adoption of the proposed emergency interim zoning regulating natural gas exploration and development, an activity under their direct jurisdiction. He also commented on the emergency and water disposal plans. Mr. Kemp commented that they are unable to obtain base line data for water, which was the Board of Oil and Gas Conservation's complaint, stating that Gallatin County was thwarting their need for data. He stated that he was authorized to tell the Commission by the Board of Oil and Gas Conservation as of 5:00 P.M. yesterday, that the Board of Oil and Gas is recommending with respect to the EIS that is presently under way, that their comment is going to be that they will not allow the drilling of any development coal bed methane well, until there has been an environmental analysis or environmental impact statement prepared for the Bozeman Pass Area. He suggested that they should exclude from the emergency regulation those test wells that were specifically authorized by the Board of Oil and Gas Conservation because there was no impact going to occur there because they are temporary wells and for the single purpose of testing, and not production wells. He noted that any operator that drills one, runs the risk that they may never be able to produce it depending on the findings after a full EIS is done. The following additions and changes to the draft regulation were suggested by the public: Jeff Buchowiski suggested documenting flow direction of wells; check the type of aquifer the well is drawing water from; have some type of base line on the capacity of the well; check which wells are connected to which aquifers; do quarterly sampling and require at least 2 years; have enforcement with teeth; have conflict of interest separated, and enact three strikes and you are out policy for those who violate the laws. Quincy Orhai suggested changing the numeration of 3.2 so that (a) the purpose to regulate the development of coal bed methane production becomes 3.2.1, and the following are listed letters, making it clear that all of these

things are for the purpose of coal bed methane only. He believed there should be a specific plan for the mitigation of environmental impacts and that it should be part of the applicant's application. He suggested they have any monitoring done by a third party, to resolve any conflict of interest and have the expenses paid by the applicant, because they will receive the benefit. Lastly, he added that the Commission should require performance bonds to be assured any environmental clean up needed will be done. Mr. Orhai had the following specific suggestions for policies to minimize the environmental impacts: If the county develops a regulation it should require surface user agreements, some form of compulsory arbitration between the oil company and the surface user so that the user agreement is in effect before any drilling can take place, adding that it was not dealt with on the state or federal level and the only way was the local level. In the event that the surface owners or the Planning and Zoning Commission have to enforce the surface user agreement then the surface landowner or the Planning and Zoning Commission should be entitled to the reimbursement of attorney's fees. He could not see a benefit to the County, only a liability. Before the CUP permits proceed the applicant should provide a development plan and an environmental impact study that would be delivered to the Gallatin County Planning Department, the Zoning Commission and to all neighbors within a mile and a half of this site. This should include the collection of fish, wildlife and plant inventories in existence and include the hydrological data referred to. The developers should provide the development plan as a basis for the study, and an EIS should be conducted by a licensed bonded third party at the expense of the developer. The plan and study should provide specific measures to protect and conserve existing agricultural and conservation usage, and plant and wildlife habitat with a schedule of phased in development to defuse the impacts over time. The following would be if they go into production: A schedule for effective monitoring of all development based on the submitted development plan should be determined by the Gallatin County Planning Department, a licensed and bonded third party monitor with the surface owners, the Planning and Zoning Commission and the applicant to provide active enforcement of existing laws to protect private property and other rights of the Montana citizens and Montana's natural resources. Such monitoring should be of the sole expense of the applicant and all records should be available for public review and audited on a monthly basis by the Gallatin County Planning Department. He believed all development should use the best available low impact technology, such as aquifer recharge, cluster development, directional drilling, mufflers for compressor stations, discharge water de-salination, infiltration for treatment and re-injection, to minimize the impacts on underground water reserves like rivers, streams and surface resources. All development should guarantee complete reclamation of all disturbed areas, and this guarantee should be accomplished by requiring all non-resource developers to post a performance bond payable to both the surface property owner and to Gallatin County equal to the current value of the property plus the potential clean-up costs of any resultant air, land or water pollution as estimated by the required development plan. The majority of public testimony was in support of the adoption of the interim zoning and zoning map for the purpose of prohibiting coal bed methane exploration and development as an emergency measure, as well as the adoption of an interim moratorium. Much of the testimony stressed emergency as well as concerns with the harmful effects, which included degradation of water; wildlife and wildlife habitat; fire danger; real estate values; and effects from drilling in a seismically active area. In discussion, Mr. Lambert noted one of the changes he thought the Commission would want to take a look at was in response to Mr. Zimmerman's letter, stating the likelihood of impossibility of meeting the requirements of Section 6.1. Mr. Lambert made some brief responses to counsel for J. M. Huber. Commissioner Mitchell commented on the testimonies that offered positive suggestions for changes to the draft, adding that she preferred making any changes prior to approval. In response, Mr. Lambert commented that some of the suggestions would be impractical. Commissioner Murdock questioned if they could amend an interim ordinance? Mr. Lambert confirmed that they could at a future time. Further discussion took place with regards to a continuance in order to incorporate some of the suggested changes and finalize the draft. They discussed the urgency to consider the resolution of intention before J. M. Huber's hearing on August 8, 2002. Commissioner Murdock suggested passing the current regulation and amending it later. Commissioner Vincent did not disagree; although he wanted to make sure procedurally that the ordinance took effect when adopted and not when amended. He preferred making the amendments prior to consideration. Mr. Lambert stated that he would work with Ms. Madgic to work on the draft, and it was agreed to by everyone that they would meet in the Willson School Board Room on June 20, 2002, at 8:00 A.M. Commissioner Murdock stated that there would be no further public comment. He added that they could not act on the moratorium at this time as it was not properly noticed, and unofficially the soonest they could hold that hearing would be June 27, 2002, at 9 A.M. **No action taken.**

Gallatin County Planner Jennifer Koozer reported on the consideration of a request for final plat approval for the Buffalo Station Minor Subdivision, described as the S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, of Section 11, T3S, R4E, PMM, Gallatin County, Montana. The property is generally located at the intersection of Cottonwood Road and Gallatin Road (Highway 191). Preliminary plat approval was granted on March 5, 2002. Ms. Koozer explained that the applicant requested a waiver on both the road impact fees and the fire impact fees (conditions #14 and 15), because both lots have existing structures. She commented that condition #16 seemed to have been met although it was unclear. Condition #16 reads as follows: Applicant shall provide

a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Gallatin Gateway Volunteer Fire Department. Applicant shall provide written verification from the Gallatin Gateway Volunteer Fire Department that all requirements have been met. Ms. Koozer noted that the applicant was unable to provide such explicit verification. The applicant indicated that the subdivision intends to use the rural fire fill site at the Montana Lodgepole Minor Subdivision. By email the Gallatin Gateway RFD indicated that there is a fill site in the area and that they would utilize it as a fill site in an emergency situation at the Buffalo Station. The County Road and Bridge Department submitted a letter in support of the road impact fees. However, the Gallatin Gateway Rural Fire Department did not support the fire impact fee waiver request. She noted that although the waivers are to be reviewed and approved at staff level, the Planning Director asked that the Commission make that determination in this case. Based on those requests, Ms. Koozer stated that the conditions for final plat approval appear to have been met, pending the Commission's determination regarding conditions #14, 15, and 16. Discussion took place regarding the Fire Impact Fee Regulations. The applicant's representative Terry Threlkeld, Allied Engineering commented with regard to the language of the Road Impact Fee and Road Impact Fee Regulations. Commissioner Mitchell stated that she was not comfortable supporting any of the requests, adding that Section 9.1.1ii did not apply in this case, and that there were impacts. She also commented on fires associated with restaurants/casinos/bars, noting more people concentrated at one place where fires happen increase the demand for fire protection, adding that the Gallatin Gateway RFD Board of Trustees were opposed to the waiver request. She had no problem with final plat however; she wanted to see the impact fees paid. Commissioner Murdock concurred, noting that he believed condition #14 and 16 had been met however, based on the email, condition #15, had not been met. Commissioner Vincent was in agreement. Mr. Threlkeld confirmed that it was just on the Buffalo Station, and not the existing home. It was agreed by the applicant and the Commission to continue final plat approval until June 25, 2002, giving the applicant time to pay the impact fees. **No action was taken.**

Gallatin County Planner W. Randall Johnson reported on the public hearing and consideration of an Improvements Agreement for the South Fork Phase 3 Subdivision. Preliminary plat approval was granted on December 18, 2001. Phase 3 includes five commercial lots located in the Big Sky area. Allied Engineering Services, Inc., on behalf of Paul and Janet Cronin, made application for final plat approval. Gallatin County Attorney Marty Lambert reviewed and approved the Improvements Agreement. There was no public comment. **Commissioner Mitchell moved to approve the Improvements Agreement for South Fork Phase 3 Subdivision, finding that the County Attorney reviewed and approved it. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner W. Randall Johnson reported on the public hearing and consideration of final plat approval for the South Fork Phase 3 Subdivision. Preliminary plat approval was granted on December 18, 2001. Mr. Johnson stated that he reviewed the application for completeness and it appeared to be in order. There was no public comment. **Commissioner Vincent moved to grant final plat approval for the South Fork Phase 3 Subdivision. Seconded by Commissioner Mitchell, finding that according to staff the applicant has met all the conditions. None voting nay. Motion carried.**

GIS Coordinator Allan Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County (Kleinschmidt Canal Drive to Moose Crossing Road). The residents of the area initiated this change. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2002-073, finding that it is at the request of the landowners and it met the requirements. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

GIS Coordinator Allan Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County (Horizon View Road to High Tower Road). The residents of the area initiated this change. Public comment: Karen Gilhousen spoke in support. **Commissioner Mitchell moved to approve Resolution #2002-074, finding that it met the requirements set by the County. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Commissioner Murdock announced a pending resolution to annex property into the Gallatin Canyon Consolidated Rural Fire District. There was no public comment. **Commissioner Vincent moved to**

approve Resolution #2002-075. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

There being no further business the meeting was adjourned at 3:23 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

THURSDAY THE 20th DAY OF JUNE 2002

A special meeting was called to order by Chairman Bill Murdock at 8:07 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

The special meeting was called to consider a resolution of intention of the Gallatin County Commissioners for adoption of an Interim Zoning Regulation and Zoning map regulating Coal Bed Methane exploration and development. Commissioner Murdock noted that public comment was closed on Tuesday, however he was going to allow limited public comment, only on the suggested changes to the draft resolution. It was noted that the hearing for the moratorium was changed to July 2, 2002, at 8 A.M., in the Willson School Board Room, rather than June 27, 2002. Gallatin County Attorney Marty Lambert reviewed and summarized the substantive changes to the proposed Interim Zoning Regulations. The following substantive changes were noted: Page 1, Section 9 changed to read Enforcement, as opposed to Adoption; Section 10 changed to Expiration, as opposed to Exhibits; new additions-Section 11 Retroactivity and Section 12 Adoption and Section 13 Exhibits. Section (3) 3.1, substitute "natural gas recovery" with "coal bed methane recovery"; and 3.2, delete prior (a), and add to the above paragraph to read as follows: In addition to promoting responsible coal bed methane recovery, specific purposes of this Interim Zoning Regulation include, but are not limited to the following. Section (4) 4.13, new definition to read as follows: Surface water. Water located on the earth surface that is associated with natural watershed or watercourses. Section (6) 6.1b, changed to read as follows: The use will not adversely affect nearby properties or their occupants, or that financial security has been provided to mitigate any such adverse affect; 6.3, change the second to the last bullet to read as follows: Plans for how the developer will comply with 85-2-251, MCA, regarding disposal of all ground water involved with coal bed methane wells; 6.3, add the third to the last bullet to read as follows: Plans for mitigation of identified environmental impacts; 6.4 change to read as follows: Security. The Commission shall require financial guarantees in the form of bonds, cash deposits and/or other evidences of compliance in order to secure compliance with conditions imposed. Section (7), change the second paragraph to read as follows: No conditional use permit shall be issued unless or until such costs, charges, fees or expenses have been paid in full, nor shall any action be taken on proceedings before the Commission, unless or until, applicable charges and fees have been paid in full. Mr. Lambert explained if the Commission took action today, that the protest period would begin and run for 30 days, roughly ending July 21, 2002, and the day after that the regulation would take effect, unless it is protested out. Public comment: Don Brelsford; Jennifer Reed; and Chuck Raches. Public comments addressed surface water disposal, fire and safety issues, and if the moratorium would supercede these regulations. Mr. Lambert advised the Commission to keep all legal options open. Mr. Lambert read the resolution of intention. The following corrections and deletions were made to the resolution: page 2, 5th whereas, substitute Section 21, for Section 25; page 3, delete the second paragraph. **Commissioner Mitchell moved to approve Resolution #2002-076. Seconded by Commissioner Vincent.** Commissioner Mitchell spoke in support, adding that she liked a lot of the testimony that brought forth good recommendations for consideration. She was looking forward to seeing a couple of zoning districts proposed by the public, which meant that the work has just begun. In the meantime she stated that they would handle each application for a test well on its own merits and location, giving them an opportunity to work with Gallatin County to mitigate any impacts that would be instituted with a test well. She believed this was a fair way to handle the situation and meet the intent of the law. Commissioner Vincent stated he would vote in favor of the resolution based on the findings of fact as read into the record by Mr. Lambert, and especially the fourth whereas, that concerns public health, welfare and safety; and the eighth whereas, which delineated the public testimony in regard to concerns involving

coal bed methane development; and the tenth whereas, finding that there is an emergency based on the findings expressed prior to that in the resolution. Commissioner Vincent made a statement, adding that he seen this as a site-specific issue and also in a broader context. He was confounded; given all the testimony they have heard over the last several months that the nature of test wells is site-specific, and that the true aggregate impacts of coal bed methane development are inadequately addressed, unless they do it. He stated that the actual impacts of CBM development go way beyond those involving water, pollution, noise, affects on wildlife, and the scaring of landscapes. Those impacts involve in their totality the very quality, nature and character of our surroundings, our sense of community, and our potential for building and nurturing a viable, clean, and sustainable economy for our county that's not only compatible with, but complimentary to, the special place in which we live. He commented that State Regulations, as we know, offers precious little protection regarding immediate and site specific impacts, especially in locales such as ours, and no protection whatsoever when it comes to those factors that impact the community as a whole. Of greatest importance, state regulation is void of any consideration for the sensibilities, values and wishes of a local community and its citizens. It is then left up those elected locally to not only consider, but to favor through their actions, the values and wishes of those they represent, so long as they act in good faith and in the belief that their actions are both reasonable and legally defensible, as he believed, in this instance, they are. To him, this issue, and a vote to approve the ordinance, epitomized both the Politics of Place and the Politics of Principle... the politics of place because he believed we are all entrusted to protect and preserve the uniqueness God has blessed us with here in this special place...and the politics of principle because he believes those of us living here have a moral obligation to do so. Commissioner Murdock acknowledged that there were more letters received. Mr. Lambert advised the Commission that they should not unless they addressed the amendments to the regulation. Commissioner Murdock concurred with the Commission, adding that they favor grass root zoning districts in Gallatin County from the ground up regulation and this epitomizes it. He was surprised in this instance that the Huber Corporation would not consider what the public in this County is trying to say, and noted that they have met a formidable opponent. He added that times are changing, and this is not a mineral extraction state where they can come in without oversight and do what they may have done 50 to 100 years ago, and Gallatin County was here to tell them that. **None voting nay. Motion carried.** The hearing for consideration of the moratorium will be held in the Willson School Board Room at 8 A.M., July 2, 2002.

There being no further business the meeting was adjourned at 8:42 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 25th DAY OF JUNE 2002

The meeting was called to order by Acting Chairman Jennifer Smith Mitchell at 9:09 A.M., at the City Commission Meeting Room. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Bill Murdock was in Wyoming attending a winter use issue.

Acting Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

JUNE 17, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell, Karen Finke with the City of Bozeman, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. Ms. Finke gave a short presentation on the recent Household Hazardous Waste collection event, held on May 31 and June 1. She stated that the event was very advantageous with more than fourteen businesses and over 500 cars coming through the collection areas. 70% of the waste collected was sent to Denver for fuel burning. They hope that this will become an annual event. The total cost has not yet been determined, but the County's cost will most likely come in under what was originally budgeted for.

The Commissioners discussed possible cuts to Gallatin County's PILT funds. It was determined that a letter would be drafted and sent requesting that our allocation remain the same.

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The Commissioners considered approval of an asset disposal request from the Road Department for a water pump. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of budget appropriations transfers for the Sheriff's Office and the ITS Department. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed the composition of the Solid Waste Management committee. Concerns were raised as to whether it was permissible and/or ethical to designate a membership position for BFI. Chief Deputy Chris Gray stated that he does not feel there is any legal reason why BFI could not be a designated member on the committee, as the committee is advisory in nature and does not have an statutory or decision making authority.

The Commissioners considered approval of an invoice submitted by Taylor, Hanson, and Kane Architects in the amount of \$2,960.75. Commissioner Mitchell made a motion to approve said invoice. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JUNE 18, 2002

- The Commissioners conducted regular County business.

JUNE 19, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. The Commissioners considered approval of two asset disposal requests from Justice Court. Commissioner Vincent made a motion to approve said requests. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioners considered an asset disposal request from the Sheriff's Office. Commissioner Vincent made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JUNE 20-21, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated June 19, 2002 in the amount of \$6,384.32.
2. Application for Cancellation of Taxes-Numbers 4588 and 4589, in the Amount of \$193.93.
3. Consideration of Contract(s): Public Defender Contract for Justice Court w/Bowen/Parker; Public Defender Contract for Justice Court w/Schraudner.Hillier; Community Operating Plan & Annual Agreement for GC Office of Public Assistant; and Grant Award from US Department of Justice to Gallatin County for COPS 2001 Technology Grant.
4. Request for Relocation of Common Boundary Lines Exemption for Eagle Rock Reserve Owners Association, Inc., Eagle Rock Ranch Limited Partnership Limited Partnership, Richard Canfield, Deborah Haydon-Canfield, James and Rebecca Garrigan, Harry and Helen McCarty, Daniel and Elizabeth Smith, Elinor K. Ogden Living Trust, Jim and Jill Gibbon, and Thomas and Patricia Klien located in Section 33 and the NW ¼ of Section 34, T2S, R6E and the NE ¼ of Section 4, T3S, R6E (Eagle Rock Reserve; Star Ridge Road). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Life Estate Exemption for Chan Cooper located in the W ½ NW ¼ of Section 5, T1S, R1E (Cooper Road, south of Willow Creek). Gallatin County Planner Jennifer Koozer reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Consideration of Release of Improvements Agreement for Davis Minor Subdivision. Based on review of the original Improvements Agreement of November 19, 1997, the addendum to the Improvements Agreement approved by the Commission on July 17, 2001, the submitted documentation of completion, Manager of Long Range Planning Lanette Windemaker recommends that the Commission approve the requested release. Upon approval, the Commission will sign a letter of release for Valley Bank Belgrade.
7. Request for Common Boundary Relocation Exemption for Gail Chemodureau Williams and James R. and Lois Syth located in the NE ¼ of Section 31, T2N, R6E, (Stream Side Lane,

Bozeman). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

8. Request for Lot Aggregation for Steven J. and Lona Wheat Petri located in Section 8, T2S, R6E (31671 E. Frontage Road, Bozeman). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell inquired if there were any adjustments to be made to the agenda. Gallatin County Planning Director Jennifer Madgic stated that the applicant requested a continuance until July 23, 2002, on regular agenda #11, public hearing and consideration of a request for preliminary plat approval for Antelope Ridge Major Subdivision. Gallatin County Attorney Marty Lambert stated that regular agenda Items #8 and 9, public hearing and consideration of a request for Improvements Agreement and request for final plat approval for the Saddle Peaks Estates Major Subdivision was to be continued indefinitely at the applicant's request. The applicant's representative Mark Chandler of C & H Engineering confirmed the continuance, noting it was his understanding that it was to be continued for one week. It was continued until July 9, 2002, schedule permitting, as the Commission was not going to hold a public hearing the following week. Gallatin County Planner Jennifer Koozer noted that regular agenda Item #12, public hearing and consideration of a request for final plat approval for Buffalo Station Minor Subdivision was continued from last week, and it was suppose to be first on the agenda. Commissioner Mitchell changed regular agenda Item #12 to 1A.

Commissioner Vincent read the consent agenda. Gallatin County Grants Administrator Larry Watson requested that the Grant Award from US Department of Justice to Gallatin County for COPS 2001 Technology Grant contract be continued for review until the Commission's office meeting on June 27, 2002. **Commissioner Vincent moved to approve the consent agenda, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Jennifer Koozer reported on the public hearing and consideration of a request for final plat approval for the Buffalo Station Minor Subdivision, noting that this had been considered and continued at last week's public hearing, due to concerns with the condition regarding fire impact fees. The Commission requested that the applicant make payment of those fees because they did not believe the waiver was appropriate. Ms. Koozer confirmed that the applicant made the impact fee payment. There was no public comment. **Commissioner Vincent moved to grant final plat approval for the Buffalo Station Minor Subdivision, finding that all the conditions have been met, and that the subdivision meets State Statute, Gallatin County Subdivision Regulations, and the Gallatin County Growth Policy Plan. Seconded by Commissioner Mitchell, noting that she had expressed concerns at the prior hearing however, she added that she would support the motion. None voting nay. Motion carried.**

Commissioner Mitchell announced that the Commission at their office meeting agreed to continue board appointments to the Historic Preservation Board, Rae Fire Service Area Board of Trustees and the Solid Waste Management District Formation Advisory Committee. One vacancy exists on the Open Lands Board due to the resignation of Ray Rasker. This is a two-year term to expire on February 9, 2004. To date, two applications were received from Don Jackson and Gus Pfaehler. The individual appointed will fill out the remainder of Mr. Rasker's term. Open Lands Board Chairman Mike Lane stated that he had no input regarding the applications, as he was unaware of this appointment. Commissioner Vincent suggested giving the Open Lands Board the opportunity to look at the applications and accept their input. Mr. Lane stated that he was in agreement with the continuance, noting that they currently had 10 members and a continuance would not jeopardize a quorum. **No action taken.**

Attorney Susan Swimley representing the County on RID's reported on the public hearing and consideration of a resolution for the sale of bonds for the Looking Glass RID #380, in the amount of \$110,000. There was no public comment. **Commissioner Vincent moved to adopt Resolution RID-02-380C. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Attorney Susan Swimley representing the County on RID's requested that agenda Item #4, public hearing and consideration of a resolution creating Canary Lane RID #382, be considered later on during the hearing in order to allow the Engineer to return with some revised exhibits. The Commission agreed.

Open Lands Board Chairman Mike Lane reported on the public hearing and consideration on recommendation of the Board's review on the proposal by Cowan and Skinner Ranch Co. for funding out of the Open Space Grant Program, Level One. Mr. Lane on behalf of the Board requested preliminary approval for the application, noting that they used the new criteria evaluation and the result of the tallies were in the high 80's out of 100. There was no public comment. **Commissioner Vincent moved to accept and approve the recommendation of the Open Lands Board review on the proposal by the Cowan and Skinner Ranch Company, for funding out of the Open Space Grant Program, Level One. Seconded by Commissioner Mitchell.** Commissioner Vincent commended all those involved, adding that it has been said that this will become the poster child for Open Lands procurement in Gallatin County. He concurred with the sanctity of the rating scale, which he believed was good although, noting there are some intangibles that cannot be rated. Commissioner Mitchell concur, adding that this type of location is exactly what was intended when they created the Open Lands bond issue and the Board. **None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of award of the Gallatin County Landfill #1, 2002, Phase 2, 6.9 acre Seal Liner Expansion Bid. Project Engineer Greg Underhill on behalf of HKM Engineering confirmed that he conducted a through review of the 7 bids submitted, and the apparent low bidder was Shumaker Trucking and Excavating Contractors, Inc., of Great Falls. Based on their research, Mr. Underhill recommended awarding the contract bid to Shumaker Contracting, noting that they were the lowest responsible bidder, in the amount of \$853,439.10. There was no public comment. **On the advice and counsel of the Engineer, Commissioner Vincent moved to grant the contract for the Logan Landfill Liner Expansion to Shumaker Contracting, finding that they submitted the lowest responsible bid of \$853,439.10. Seconded by Commissioner Mitchell.** Mr. Watson pointed out that there was an error in calculating the dollar amount of the bid, and noted the correct amount was \$854,609.62. Commissioner Vincent amended the motion to incorporate the correct amount. Commissioner Mitchell amended the second. Commissioner Vincent commended those involved with this project. **None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and request for resolution to amend the Maternal Child Health Grant, Fund No. 2273 for the County Health Department budget to include unanticipated grant revenues of \$6,995. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-077. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Mitchell announced the presentations and opening of bids for the legal advertising contract. It was noted that one bid was received from the High Country Independent Press, with various amounts. The Commission discussed delaying the decision in order to have the Fiscal Officer and the Clerk and Recorder review the bid for a recommendation. Gallatin County Fiscal Officer Ed Blackman stated if it were extended they would have to amend the current contract, as it expires the end of June. Gallatin County Clerk and Recorder Shelley Vance confirmed that since this was the only bid received, there would be no need for review, as there were no other competing bids and they did not have the ability to do a comparison. She recommended they go forward and award the bid. Mr. Blackman concurred, noting that it could be made contingent that all appropriate areas were completed. **Commissioner Vincent moved to accept the bid from the High Country Independent Press, contingent on a finding by staff that the bid is in proper order. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Attorney Marty Lambert reported on the public hearing and consideration of partial release of improvements agreement for the Elk Grove Major Subdivision. Mr. Lambert recommended a continuance until July 9, 2002, as he had not reviewed the new Exhibit "A", an attachment that is intricate to the Improvements Agreement and the letter of credit. He was not prepared to pass judgment and approve the request at this time. The applicant's Attorney Susan Swimley explained that she had

prepared the full re-conveyance and explained that a delay would be a problem. Further discussion took place regarding a date that would be appropriate for everyone to reconsider the request. It was decided they would try to consider this at an office meeting, which are held on Mondays and Wednesdays. Public comment: Frank Silva also recommended time to review the document and was in agreement to the continuance. **No action taken.**

Representing County RID's Attorney Susan Swimley reported on the public hearing and consideration of resolution creating Canary Lane RID #382. Because the Engineer had not returned with the exhibits, Ms. Swimley requested that the Commission take the Clerk and Recorder's report on the protests, take public comment, and to not consider the resolution. She stated they could continue consideration of the resolution to a regularly scheduled meeting, or to a time with 5 days notice. Gallatin County Clerk and Recorder Shelley Vance stated that notice was published in the High Country Independent Press, on June 6 and 13, 2002, and in addition notice was mailed to all landowners within the proposed district on June 5, 2002. The protest period started June 6 and ended June 21 at 5PM. During the protest period there were no written protests regarding the creation of this RID. Public comment: Karen Kelly; Richard Kelly; Jay Bair; Rehna Merkel; and Jim Carter. Those who spoke were all in favor of the paving improvements. However, the following concerns were expressed: notice of the protest period was not received; not all of the residents on Golden Trout Way were being included, and it was requested to extend the boundaries there as well as other areas; and maintenance. Ms. Swimley confirmed that a notice had been mailed to the two people who did not receive one, and they were returned by the post office. In addressing issues raised by the public, she first pointed out the revision to the assessment scheme on the Exhibit, noting that the large parcel of Fort Ellis, Phase 2, appeared as one parcel, when in fact it was 3, therefore the Treasurer requested that it be divided out per parcel number in order to spread out the assessment. She explained the reason that all of Golden Trout Way was not included was because it extends further to the east and as part of the development of Fort Ellis, Phase 1, they had to pave Fort Ellis Road, so in subdivision review they did not have to pave Canary. She added, for benefit they have to draw a line of where properties are going to be specifically benefited by the improvement, and those included will directly access onto Canary. Ms. Swimley stated that Phase 3 of Fort Ellis was approved in a PUD by the City and has not been subdivided, so payback contributions or application of their impacts fees to pay down these bonds is a possibility if it comes forward to the County. Fort Ellis, Phases 1 and 2, are under the City Donut Zoning, so the County did not get those impact fees. She commented that the County is not in the business to maintain subdivision roads, and it is appropriate to be maintained by an RID. Ms. Swimley stated that the reason subdivisions to the north were not included, is because they have access out onto Haggerty Lane. In addition, she explained that the other revision was a reduction in the amount of bonds from \$201,000 to \$200,000, at the request of bond counsel, making it easier to sell the bonds. She stated that the maintenance cost was an estimation and would fluctuate depending on the repairs. Ms. Vance explained the notice process and confirmed with the individuals who did not receive their notice, the address of record. Ms. Swimley noted that the engineer had arrived with the revision to the exhibits and suggested the Commission could consider it at this time. Commissioner Mitchell preferred a continuance in order to review the revisions and give the public an opportunity to receive answers to their questions. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 10:20 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 2nd DAY OF JULY 2002

The special meeting was called to order by Chairman Bill Murdock at 8:00 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

JUNE 24, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Commission Secretary Rose Blaskovich, Commission Assistant Glenda Howze, and guests Phillip LaFournaise and Ray Milligan, trustees with the Gallatin Gateway Fire District. The Commissioners discussed the appointment of Ron Page to the Gallatin Gateway Fire District with Mr. LaFournaise and Mr. Milligan. The gentlemen expressed concern that Mr. Page would not step down as a fire fighter while serving on the board. The Commission assured them that he agreed to do so at the public meeting when he was appointed and that if this did not occur they would consider retracting his appointment.

The Commissioners discussed invoices submitted by Prugh and Lenon Architects for work done on the Detention Center project. The Commissioners noted that this firm was asked to attend meeting and provide factual information as needed, and they were told they would be paid for their resources and time in doing so. Commissioner Murdock made a motion to pay the invoices as submitted. Commissioner Vincent seconded the motion. In discussion, Grants Administrator Larry Watson stated that the invoices include charges for two sets of drawings that were designed for "the road" and for a lobby display. Commissioner Mitchell stated that the drawings were completed in 1999 and she is not comfortable paying for invoices that just come up and haven't been under contract. Mr. Watson stated that he doesn't have a problem with the drawings and that he will request a task order with Prugh and Lenon before any further work is done – in order to ensure a cleaner audit trail. Commissioners Murdock and Vincent voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to zero.

JUNE 25-26, 2002

- The Commissioners conducted regular County business.

JUNE 27, 2002

- The Commissioners attended a special meeting for the purpose of discussing a 9-1-1 Grant. In attendance were Commissioner Mitchell and Vincent and Grants Administrator Larry Watson. The Commissioners discussed the 9-1-1 COPS grant in the amount of \$598,680 with no match required. Commissioner Mitchell made a motion to approve the grant application, noting for the record that the Commission is aware that Gallatin County is in non-compliance with the EEOP. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners also discussed the bond for the West Yellowstone composting facility. Commissioner Mitchell made a motion to approve the bond resolution, contingent on approval from Chief Deputy Chris Gray. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

- The Commissioners attended a special meeting for the purpose of considering a lot substitution for Elk Grove Subdivision. In attendance were Commissioners Mitchell and Vincent, County Attorney Marty Lambert, Attorney Susan Swimley, Justin Buchanan, and Commission Assistant Glenda Howze. Ms. Swimley explained that the owners of Elk Grove are requesting a substitution of lot 33 for lot 35 for collateral under the Elk Grove Improvements Agreement. The value and equity position remains the same. Someone is interested in purchasing lot 35, so they need to substitute lot 33 in its place. Commissioner Vincent made a motion to approve full reconveyance of lot 33 of Elk Grove Subdivision. Commissioner Mitchell requested that the motion also include substitution of lot 35 for lot 33 and Commissioner Vincent agreed. Commissioner Mitchell seconded the motion. In discussion, County Attorney Lambert and Ms. Swimley noted that they have reviewed and approve both the reconveyance document and the trust indenture for lot 33. All voted aye. Motion carried with a vote of two to zero.

JUNE 28, 2002

- The Commissioners attended a special meeting due to an emergency situation regarding insurance. In attendance were Commissioners Mitchell and Vincent, County Attorney Marty Lambert, Chief Deputy County Attorney Chris Gray, Insurance Agent Tyler Delaney, and Commission Assistant Glenda Howze. The County Attorney noted that due to that 2-3-112, MCA could be applied in this instance and an emergency, non-noticed meeting can be held in this situation, as it affects public welfare. At 12:01 am on July 1, 2002 the current insurance policies with St. Paul will lapse. Mr. Lambert advised the Commission that it is critical to have full insurance in effect at all times. Mr. Delaney explained that he has done comparative "shopping" and looked at four insurance carriers that will insure public entities. The two carriers that the research came down to are the MACo pool and St. Paul. Coverage, premiums, and deductibles have all been compared. Discussion ensued on the pros and cons of each. As a result of this comparison, Finance Officer Ed Blackman and County Attorney Marty Lambert recommend the County insure with St. Paul Insurance Company.

Commissioner Vincent made a motion to insure for FY 2003 with St. Paul Insurance, noting that coverage and premiums are superior to any other company, including the MACo pool, and further noting that all options have been thoroughly analyzed by the County Attorney, Chief Deputy County Attorney, and Finance Officer – all recommended approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The purpose of the meeting was for consideration of whether or not to adopt an interim zoning map and regulation in the Bozeman Pass Area for the purpose of placing a moratorium on all coal bed methane exploration and development for a specified one-year period (with a possible one-year extension). Gallatin County Planning Director Jennifer Madgic explained this was part two in a series of efforts concerning coal bed methane. On June 20, 2002, the Commission voted to adopt a Regulation and Interim Zoning District for the purpose of regulating coal bed methane, filling in the un-zoned gaps around the Bridger Canyon, Trail Creek, and Bear Canyon Zoning Districts. In addition to adopting the district boundaries, there were regulations adopted that would fit within the district boundaries, to regulate coal bed methane as a (CUP) Conditional Use Permit. State Statute 76-2-206, MCA allows the creation of an interim map and/or regulation for a one-year period as an emergency measure for the purpose of conducting further studies. As required, public notice advertising this public hearing was published in the High Country Independent Press on June 20 and 27, 2002; and the Bozeman Daily Chronicle on June 23 and 30, 2002. In explaining the process, Ms. Magic noted in the event that the Commission adopts a moratorium, a 30-day protest period is required. The moratorium would allow the community time to figure out what to do, as there have been a number of on going requests in this area for zoning districts. Ms. Madgic noted that there were 50 letters received at the June 20th hearing, and she approximated at least 85 percent of the letters mentioned moratorium. On this issue written comment was received from the following: Alexander; Alsaker; Martin; Visscher; Read; Eggert; and a brief from Kemp, representing J.M. Huber. The Gallatin County Planning Board met June 11, 2002, to discuss and pass on recommendations to the Commission. The Board was mixed in its opinion regarding such recommendations. Eleven individuals testified at the Planning Board public meeting. Although testimony varied, the majority supported adoption of a moratorium restricting coal bed methane for an interim period. The Board was unable to form a majority opinion on how and if the coal bed methane industry should be regulated. Gallatin County Attorney Marty Lambert read Section 3.2 as follows, which summarized the regulation: To ensure that coal bed methane exploration and development occurs in a responsible manner, the Gallatin County Commission hereby adopts a moratorium for total prohibition of any or all coal bed methane exploration and/or development in the Bozeman Pass Area Interim Zoning District for one year after this regulation takes effect, as provided in 76-3-205, MCA. He stated that the rest of the regulation was the same as the regulations passed on June 20th. He pointed out if there is a protest, State Statute 76-2-205 (6), provides that they cannot under take any more zoning activity in this area for one year. He advised the Commission not to take any action with regard to the fact that they may have both in place and in effect, until it becomes an issue. Mr. Lambert commented on majority opinions of Supreme Court cases with many of the same parallels to this issue, adding that they were very supportive of the Commissions imposition of any such moratorium. He addressed Mr. Wilson's brief, which expressed the statement that there was no emergency. Further discussion followed regarding the legal standing of Mr. Wilson's statement relative to already having established the regulatory ability therefore, eliminating the emergency. Mr. Lambert advised the Commission to keep all their options open and proceed, as long as it is defensible in terms of Statute 206. He noted that the proposed resolution of intention, takes into account, both of the January hearings, where they heard a lot about the potential impact in this area, and the hearing on June 20th. He advised the Commission to go forward on everything they believed was appropriate to protect the public health, safety, welfare and morals of the public. Public comment in support: Jennifer Read; Anna Visser; Laura Heck; Gray Davidson, submitted Exhibit "A", written testimony; Jenni McCune; Mike Smith, submitted Exhibit "B", written testimony; Tony Biel; Sue MacGrath; Mary Ann Kelly, submitted Exhibit "C", written testimony; Clay Hall; Franklin Smith also spoke on behalf of the Sundance Meadows Homeowners Association; Jeanne Eggert; Phil Olson also spoke on behalf of Doris Kallestad and Grace Olson; Stirling Lantz; Nona Chambers also spoke on behalf of Steve Wiltzen and James Brooks; Chairman of the Bridger Canyon Rural Fire District Chuck Raches; Nancy Proctor; Melissa Frost on behalf of the Greater Yellowstone Coalition, submitted Exhibit "D", written testimony; and Mary Hamilton. Public comment in opposition: Mike Wozniak, on behalf of J.M. Huber spoke regarding the extensive regulations adopted June 20th, and questioned the emergency. J. M. Huber believed they should at least be allowed to see if the regulations work, and that there was no new emergency that would require a moratorium. Quincy Orhai believed that the moratorium might be a good idea. However he did not feel this was the time for it. He believed they needed to see if the emergency district will work, in terms of providing regulation for coal bed methane first, and if it does not work then is the time for a moratorium. He stated that it might be better to reserve the potential

regulatory capacity of the County through this moratorium for next year, and see what happens. Those who spoke in support expressed the need to give adequate time to explore impacts and conduct studies to preserve the area, with the best possible mitigation strategies. Ms. MacGrath requested that testimonies from the June 20th hearing be incorporated into today's hearing, most of which addressed the need for a moratorium and interim zoning, as they could not attend this hearing. Much of the testimony expressed concerns with the impacts on water quality; air quality; property values; view sheds; quality of life; drilling in an active seismic area; and the need for an EIS. Mr. Lambert responded to Mr. Wozniak's testimony that there was no emergency, and that there were reasonable regulations in effect. He noted that the record will clearly reflect what was said today was inconsistent with what was said a couple of weeks ago by representatives of J.M. Huber. He recalled testimony by Mr. Zimmerman on behalf of J.M. Huber that the regulations were unreasonable and that they presented an obstacle and hurdle that no one could overcome to get a permit. Mr. Lambert commented that it was very unfortunate the state has not stepped up, leaving the taxpayers of Gallatin County and the portion of the Commission's budget that is discretionary to be placed on the line, if they go down the regulatory scheme. He believed the state should take their resources, which are far greater than the county's to provide the sort of meaningful studies needed, to come up with objective data regarding hydrology, geology, petroleum engineering, economics and real estate, so that they could properly apply regulations to determine the effect on real residential property values in this area if coal bed methane development and exploration does take place. In addition, there would be demands placed on staff time if they go through a process of reviewing and making a determination about applications made under the regulation. Further discussion took place regarding whether or not they could impose a moratorium, should the interim zoning regulation not work out, and regarding the length of time they could prohibit an economic or development activity. He advised caution in extending in a serial fashion, a moratorium. Ms. Madgic stressed the point that regardless of whether or not the Commission adopts the moratorium or the regulation, that there is a clock running and the purpose of the one-year time frame is to conduct studies in good faith. She added, that the Planning Department needed for the public to participate and help determine what they should do, such as the creation of additional zoning districts in the area and to look at creative suggestions that are more efficient. She reiterated that the CUP process is extremely time consuming. **Commissioner Vincent moved to adopt and approve the regulation known as the Bozeman Pass Area Interim Zoning Regulation Moratorium, noting Section 1.1, the purpose for adopting this regulation is to prohibit coal bed methane exploration and/or development for a one-year period from the date of adoption, being today in the area shown on the Bozeman Pass Interim Zoning Map, and noting that this interim regulation is not intended to regulate or prohibit any other uses or property within the district boundaries. Seconded by Commissioner Mitchell.** Commissioner Murdock questioned whether or not the motion would serve to adopt the resolution of intention for adoption of the interim zoning regulation? **Commissioner Vincent amended the motion to specify that it is the adoption of a resolution. Commissioner Mitchell amended the second.** Commissioner Vincent believed that an emergency exists, and his rationale for making and supporting the motion was that he believed it was warranted under Section 76-2-206, and he also believed that it was entirely consistent with the Tahoe decision recently made by the United States Supreme Court. He believed that it provides an optimum and necessary level of protection for a special and sensitive area that is very much different from those areas that we usually associate with full-scale coal bed methane development. It also reflects and represents the wishes of the community, and helps reduce uncertainty and the lack of predictability critical in regard to this issue. Also in regard to the environmental future of the immediate area but also in regard to property values in the area and the continued potential in the community for building a clean, stable, and sustainable economy. It will provide time for the 2003 legislature to address the impacts of coal bed methane development in an environmentally and residentially sensitive locations such as those located in the emergency zoning district established. It will allow the time necessary to do the work that must be done to create the regulations, boundaries, and perimeters of a permanent zoning district, and take into consideration the work that needs to go into analyzing and processing the CUP application by the Planning Department, which would divert time, effort, money, and energy away from the research needed to do it. He noted the lack of Planning staff, which is inundated with new applications for subdivisions that carry a statutory time line for completion, and if those time lines are not met the county could become liable. Given all the strains on staff that could occur, he believed they would be placing the county at risk and that specifically constitutes an emergency. He added that they still work under the restraints of I95, and are limited to the amount of taxation they can levy to cover expenses, such as expanding and adding to staff. It will provide time to make sure that they have local input into any forthcoming EIS, and also provides an opportunity for the EPA to scrutinize the EIS, which has been found lacking especially in these areas. For all those reasons, some general and some specifically addressing the emergency nature of the situation, he supported the motion. Commissioner Mitchell stated this was a new level of difficulty in decision-making and probably one of the toughest, if not the toughest decision in her time on the Commission. She believed that a moratorium was a bullet they did not need to use at this point, and she preferred to reserve it for a later date, therefore she was not in support. She preferred to let the

processes work their way through and meanwhile figure out the zoning needed. She noted that no moratorium has been put in place by any other county in Montana and they would be breaking new legal ground, and that they would be putting themselves at a huge risk at the State and Federal level in doing so. She preferred seeing the time, money, and energy spent in creating the zoning regulations, by staff and the public. She commented that the zoning regulations do work because of the accountability, representation, and the democratic processes, which was proved with the previous CUP application. She commented that the public would have to have faith in them and the Zoning Commission. She believed that each CUP hearing would serve as an education process that could refine those zoning regulations while in process. She stated that the regulations were going to be the permanent solution and that the moratorium would not be a permanent ban. Commissioner Murdock hoped that everyone would remember that coal bed methane was a very clean and plentiful fuel and some day coal bed methane might be extractable and explored for in this area with mitigable tools in place. However, he did not believe they were anywhere near that time yet. The prospect of coal bed methane exploration and extraction without those tools in place to properly protect the public is the very essence for the need of a moratorium at this time, until it is known how to minimize the impacts of coal bed methane drilling and exploration. Therefore, a moratorium in his mind was very appropriate and he was in support. Commissioner Vincent reinforced that a moratorium is justified on the basis of emergency, as each CUP application that they would receive if they did not impose a moratorium is site specific, and each application would have to be scrutinized on its own merit, which would demand a tremendous amount of work and scrutiny by staff in order to complete. He reiterated that the Planning Department was under staffed and that they would be hard pressed just to meet their current obligations under state law in regard to other matters in that department. **Commissioner Murdock confirmed that this would be Resolution #2002-078. Commissioner Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Commissioner Mitchell moved approval of the claims submitted by the Gallatin County Auditor, dated June 27, 2002, including check numbers 8011455 through 8011729, in the amount of \$427,085.07. Seconded by Commissioner Vincent. None voting nay. Motion carried.

The Commission agreed to continue the contract agreement for Workplace Mediation Services with Nona Faith/Mediation Institute of Montana, as they believed it had not been properly advertised. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 10:19 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 9th DAY OF JULY 2002

The meeting was called to order by Chairman Bill Murdock at 9:00 A.M., at the Fairgrounds Building #4. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

JULY 1, 2002

- The Commissioners attended a special meeting for the purpose of considering a partial release of credit for Elk Grove Subdivision, Phase I. In attendance were Commissioners Mitchell and Vincent, County Attorney Marty Lambert, Attorney Susan Swimley, Concinnity Owner Justin Buchanan, Commission Secretary Rose Blaskovich, Commission Assistant Glenda Howze, and guest Frank Silva. The request asks for a release of all of the lots that Gallatin County has interest in and a letter of credit reducing the credit by \$480,000. Mr. Lambert has reviewed all documents and approves them for content. The initial letter of credit was for \$750,000, to expire on December 31, 2003. Mr.

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Lambert recommended the release of all lots and an addendum to the reduction of credit as requested, noting that letters from the Road and Planning Departments concur with the reduction in credit. Mr. Silva stated that there are numerous DEQ violations and he believes that the system is different from the one promised in the preliminary plat application. He also stated that he feels they violated a condition to have the road issues completed prior to occupancy. Discussion took place and the developer and attorneys responded to Mr. Silva's concerns. Commissioner Vincent made a motion to allow full reconveyance of those lots that the county has interest in and direct a Commissioner to sign the addendum allowing for a partial release of credit. Commissioner Mitchell seconded the motion. In discussion, Commissioner Vincent stated that he hopes the developer and neighbors can work together and communicate better. All voted aye. Motion carried with a vote of two to zero.

JULY 2, 2002

- The Commissioners attended a special meeting for the purpose of approving a contract for mediation services with Nona Faith. In attendance were Commissioners Mitchell and Vincent, Chief Deputy County Attorney Chris Gray, and HR Director Randy Kuyath. Commissioner Vincent made a motion to approve a contract with Nona Faith for mediation services, up to \$1,300, half to be paid by the County Commissioners' contingency budget and half to be paid from the Auditor's budget. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a two to zero vote.

JULY 3, 2002

- The Commissioners conducted regular County business.

JULY 4, 2002

- The Commission Officer was closed in observance of the Fourth of July.

JULY 5, 2002

- The Commissioners conducted regular County business.

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- Landfill Revenue for June 2002: \$96,491.58.
- Payroll for June 2002: \$1,217,211.02.
- Clerk & Recorder's Fees Collected for June 2002: \$66,286.70.
- Application for Cancellation of Taxes for June 2002; \$193.93:
- New Hire Report for June 2002: Rachel Alkire, Brittany Bartholomew, Paul Burkardt, Tara Clark, Michael Gianfrancisco, Walter Gordon, Daniel Guenther, Jennifer Hobbs, Toni Lucker, Thomas Madsen, Charles Napoli, Becky Ness, Linda Saunders, Stacey Scott, Deahna Simon, Michael Wick
- Terminated Employees' Report for June 2002: Kristina Barnes, McGinley Disanti, Jessie Elliott, Chad Murray, Denise Stahl

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated July 3, 2002 in the amount of \$103,332.58.
2. Application for Cancellation of Taxes, Numbers 4590-4593, in the Amount of \$823.28.
3. Consideration of Contract(s): RID Engineer Task Order #0928 122 010 – to Contract #2001-01; Modification to Contract #2002-104, WebTax Module w/CSA, Inc.; Thomas, Dean & Hoskins, Inc., Engineering Services for RID #382; Legal Advertising Contract w/High Country Independent Press; Evercom Systems, Inc.-Inmate Telephone Systems Agreement; Grant Award from the Montana Board of Crime Control for the Crime Control for the Gallatin County Freedom from Fear Grant Program FY 2003; and Maternal Child Health – Task Order #03-07-5-01-016-0, Master Contract #1999-021.
4. Request for Relocation of Common Boundary Lines Exemption for Scott A. and Ellen M.W. Higgins/Jean E. Heetderks located in Section 18, T1S, R6E (860 Glory Lane, Bozeman). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock announced the Board appointment to the Solid Waste Management District Formation Advisory Committee would be continued until July 16, 2002, pending input from the City of Belgrade and Manhattan on their preference. It was noted that they would only be considering receipt of the petition and not the resolution of intention on regular agenda Item #4, regarding creation of the Lake Subdivision RID. Regular agenda Item #2, public hearing and consideration of application for award of the Gallatin County Landfill #1, 2002, Phase 2 seal liner expansion was already considered at a prior hearing. He also noted that the developer requested to be present for regular agenda Items #10 and 11, continuation of public hearing and consideration of request for the Improvements Agreement and final plat approval for the Saddle Peaks Estates Major Subdivision, therefore it to would be continued. Gallatin County Attorney Marty Lambert confirmed that he spoke with the project engineer Bill Dreyer regarding the continuation.

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Five vacancies exist on the CDBG Revolving Loan Fund Board due to the term expirations of Joe Bateson, Carolyn Maples, Dale Nerlin, Mitzi Bowen, and Robert DeWitt. All members were contacted and asked if they wished to reapply. The board consists of an attorney, a banker, a CPA, a small business owner, and one member of the public. Ms. Maples (member of public), Dale Nerlin (small business owner), and Robert DeWitt (banker) all expressed an interest in being reappointed. Three additional applications were received from David Weaver (attorney), Chris Budeski (small business owner), and Jeff Krauss (CPA). The terms for these positions are as follows: Attorney: Two-year term (7/01/04); CPA: three-year term (7/01/05); Small Business Owner: two-year term (7/01/04); Banker: one-year term (7/01/03); and a Member of the Public: three-year term (7/01/05). It was noted that Dale Nerlin preferred not to be reappointed although; he would be willing to serve if there were no other applicants. There was no public comment. **Commissioner Vincent nominated Chris Budeski, as a small business owner. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Ms. Maples, as a member of the public. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to re-appoint Robert DeWitt, for the banker position. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to appoint David Weaver, for the attorney position. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Jeff Krauss, as the CPA. Seconded by Commissioner Vincent. None voting nay. Motion carried.** One vacancy exists on the Rae Fire Service Area Board of Trustees due to the term expiration of Joe Polus. This is a three-year term expiring on April 1, 2005. Mr. Polus was contacted, and responded that he was no longer interested in serving on the Board. To date, two applications were received from Dayle Kountz and Lynorra Jetter. There was no public comment. **Commissioner Vincent moved to nominate Lynorra Jetter. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** Four vacancies exist on the Community Corrections Board due to the term expirations of Earl Peace, Carolyn Robinson, and Marvin Feddes, and the resignation of Probation Officer Gwen Massey-Tietz. All those with term expirations were contacted. Mr. Peace and Ms. Robinson expressed an interest in being reappointed to the board; Mr. Feddes declined consideration of reappointment. Bernie Driscoll, Chief Probation Officer, recommended that Stephen Ette replace Gwen Massey-Tietz as the adult Probation Officer representative on the Board. To date, two additional applications were received from Peter Rieke and Jennifer Blossom. Due to the change in by-laws, the terms for these positions are as follows: Member of the public term – one-year ending July 14, 2003; Probation and Parole Officer – to complete term ending July 14, 2005; Law Enforcement Officer term – four-year term to end July 14, 2006; and Member of the public – four-year term to end July 14, 2006. Mr. Peace requested that he be given the one-year term, if reappointed. There was no public comment. **Commissioner Mitchell moved to reappoint Earl Peace, as a member of the public for one-year, ending July 14, 2003. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to reappoint Carolyn Robinson, as the law enforcement officer. Seconded by Commissioner Vincent. None voting nay. Motion carried. Finding that the Chief Probation Officer recommended Stephen Ette to replace Gwen Massey Tietz, Commissioner Mitchell moved to appoint Mr. Ette. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Peter Rieke, as a member of public to a four-year term. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the public hearing and

consideration of a bond resolution for West Yellowstone/Hebgen Basin Refuse District MSW Compost Facility. Prior to this hearing the Commission took joint action procedures with the West Yellowstone/Hebgen Basin Refuse District to adopt resolutions that are Commitment Agreements. In those agreements the conditions and terms were outlined with the Department of Natural Resources and Conservation for \$4,136,000 of revenue bonds to fund the municipal solid waste compost facility scheduled for construction at the West Yellowstone transfer station. The West Yellowstone Hebgen/Basin Refuse District Board adopted a similar resolution, which was passed onto the Commission as their request for joint sponsorship of this resolution to the Department of Natural Resources to trigger funding of the project. Mr. Watson pointed out on behalf of the Commission and the West Yellowstone Board that Gallatin County Fiscal Officer Ed Blackman, Chief Deputy County Civil Attorney Chris Gray, Gallatin County Treasurer Anna Rosenberry, and Gallatin County Clerk and Recorder Shelley Vance all reviewed the document. Mr. Watson noted in talking with Mr. Gray that there were some small verbal changes that they wanted to make to the document before it is signed, and Mr. Gray asked that the Commission approve this document pending his final review and final transmittal of the documents for signatures, once all those involved are satisfied with the language. Mr. Watson highlighted comments made by Mr. Gray in a memo, dated July 8, 2002, regarding the documents. Those comments included that bond counsel Mae Nan Ellingson, representing the Dorsey & Whitney Law Firm, Missoula, specifically indicated to him and to the County that these revenue bonds do not fall under the indebtedness limitations under Montana Code. Therefore, they are all relying on Ms. Ellingson as bond counsel for that information. Normally under these situations the county would hire its own bond counsel for county bond issues, and in this instance where they have bond counsel assigned to the project through DNRC, it puts the county in a position to rely upon Ms. Ellingson to advise that the documents are not only in the best interest of DNRC, but also in the best interest of the County and the District. The documents bind both the County and the District on this project, and in binding the County to the future of this project the administrative issues are yet to be decided. He believed at some point they would have an administrative structured county employee contract to oversee the Logan Landfill and the composting facility in West Yellowstone, giving the county more control over the revenue coming in to fund the project. Those revenues are the result of tipping fees, of which the two primary clients are Yellowstone National Park and BFI. Further discussion took place regarding the third party haulers participation being paramount to the payment of the bonds. Mr. Watson explained the urgency for the Commission to take action, was because once it is signed a 30 day review period must take place before any funding can be drawn down on the bonds. He also pointed out the need to get as much work done on the project before winter shutdown and because of a guaranteed contract date with Yellowstone Park for July 1, 2003. He confirmed that Mr. Gray would have the finalized documents for review by the end of the day, and ready for signature. There was no public comment. **Commissioner Vincent moved to approve the bond resolutions and commitment agreement for the West Yellowstone composting plant, contingent on Mr. Gray's final review. Seconded by Commissioner Mitchell. Commissioner Vincent amended the motion to include that this would be adopting Resolution #2002-079. Commissioner Mitchell amended the second. None voting nay. Motion carried. The resolution was not available for signing at the time of approval.** Commissioner Vincent thanked all those involved in the project.

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Chief Deputy Clerk and Recorder Eric Semerad reported on receipt of petition to create Lake Subdivision RID #384, described as Lots 6-12, Block 1, Lots 1-5, Block 2, Lots 1A-1, 1B, 2, 3, and Block 3, of Lake's No. 2 Subdivision, and Lots 1-8, Block 1, Lots 1-3 Block 2, of Lake's No. 3 Subdivision, and Plat 149-130 situated in the SW ¼ of Section 22, T1S, R5E, P.M.M., Gallatin County, Montana. Mr. Semerad stated that the petition was received on May 22, 2002, from Brent Miller, of Gaston Engineering to pave roads in the Lake Subdivision. He noted that the petition was examined, showing 28 lots in the proposed district and there were signatures representing 16 of those lots, which constitutes 57% of the parcels within the proposed district. According to the Gallatin County RID policy 60% of the parcels represented by qualified signatures are required on the petition. Gallatin County RID Attorney Susan Swimley explained that the reason this petition came forward with 57% approval, and not 60% approval is that 5 of the lots in the proposed district are not going to be assessed. Of the 5 lots, 2 lots are parks, which traditionally the Commission has not assessed. The other 3 lots, do not directly front the improvement, which means they have access onto another road but the backside of the lots are on the road that will be improved. In order to create the improvement district so that it includes all of the land to be improved, these lots have to be included although they will not be assessed. Therefore, of the 28 lots, only 23 lots will be assessed, of which 16 signatures would be in excess of 60%. Commissioner Mitchell was not ready to take action, due to the lack of a report and given the contention and comment received on previous RID's. There was no public comment. Given the explanations and special circumstances, Commissioner Vincent believed it would be appropriate to

proceed to accepting and receiving the petition. **Commissioner Vincent moved to accept the petition, including the directive to staff to draft the resolution of intent. Seconded by Commissioner Murdock.** Because RID's are very time consuming to staff, Commissioner Mitchell preferred waiting for documentation from the Clerk and Recorder and staff in order to review and confirm proper notice was made to those who would be affected. **Commissioner Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.** Ms. Swimley questioned what documentation the Commission wanted in advance. The Commission requested a full copy of the petition, certification and resolution of intention in order to be consistent and to serves in the public's best interest. Further discussion took place with regards to the RID policy. Ms. Swimley is currently in the process of rewriting the policy, and Commissioner Murdock suggested that she add that parks are no longer included.

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Gallatin County RID Attorney Susan Swimley reported on the continuation of public hearing and consideration of a resolution creating Canary Lane RID #382. Ms. Swimley gave a brief summary of the proposed RID to date. There was no public comment. **Commissioner Vincent moved to adopt Resolution #RID-02-382B. Seconded by Commissioner Mitchell,** adding that she was not going to support the motion, because of the numerous protests at the prior hearing and she was still unsure of whether or not those people's questions were answered. She believed there should be more effort in public relations prior to formation of RID's. Further discussion took place regarding the prior public comment. Commissioner Murdock commented that it might be a good idea to have public meetings in the proposed areas. **Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution adopting the preliminary Gallatin County FY 2003 operating budget as determined by the County Commission. Mr. Blackman gave a brief overview of the Commissions discussions on the budget, which included-Wages, position and changes in personnel; Operating changes; Bond activity; and other activities. Overall: The Commission approved an increase in taxes of \$290,700 from unused floating millage, which could have been increase by \$480,000; Increase in dollars \$1,443,335, which will increase approximately \$2 to \$2.5 million for the cash carry over in special districts; Percentage increase 2.1%; and new 12 positions. Pending factors: Taxable valuations from the State of Montana, Department of Revenue are late, which were due on July 8, 2002, and the budget will be adopted the end of August or the first of September. They would also have to wait for final cash on hand, as well as requests for consideration or reconsideration of preliminary budget decisions as follows: a) \$45,000 New allocation for Shelter Home; b) \$25,000 Gallatin Development Corporation; c) \$332,155 CIP projects to be funded from new construction dollars; d) \$20,000 County Opinion Poll; e) \$60,000 CJCC Bail Officer; f) \$22,000 Local Attorney's for Law Library; and g) \$10,000 Open Lands Board. Mr. Blackman noted that this does not include the floating mill that could be levied as a result of the new taxable valuation, which he is awaiting from the state. He outlined several of the budget line items for the Commission, noting that 18% of the county budget is funded by property taxation. Gallatin County Attorney Marty Lambert commented on the changes made in the budget adoption process and the substance, noting that this session was outstanding and very productive. He spoke regarding the floating mill and asked on behalf of their constituents to take the full amount of millage they are able to impose as a matter of law, because of the county's growth and the demands for services across the board. **Commissioner Vincent moved to adopt Resolution #2002-080. Seconded by Commissioner Mitchell,** adding that she would not support the motion because there is a variety of county departments that are doing more and catching up with less, for example the Road Department and the Planning Department, and there are other departments demanding huge increases, without providing a plan for justification of their personnel and increased expenses. She commented on the Sheriff's budget increase of more than 5 percent, and the only thing that was new was they were going to have deputies on bicycles. She was concerned how they would get to remote places within the county. She added that they did not have to increase the taxes, or use the floating mill levy, and Gallatin County residents were fortunate to enjoy increased tax revenues due to its growth and increased population. She believed they deserved to reap the benefits, by not increasing taxes, and that the public was due some kind of consideration, as this was becoming a very expensive place to live. Commissioner Vincent commented on the process and encouraged anyone with a concern that any particular budget item was inappropriately appropriated to look at those votes one by one, item by item to make a determination whether that was money well spent for the tax payers in Gallatin County, given the services needed. He added that one could always find certain aspects of any budget that is not perfect, but this is a high growth county that will continue to grow and the demand for services will grow as well. He believed that all things considered they are doing an excellent job with taxpayer's money, and that this is an

appropriate budget taking into consideration the taxpayer and the services that are in demand. Commissioner Murdock commented on the adopted budget process, and concurred that everyone who worked on the budget deserved the credit for trying to address the increase in demands of a growing county. Commissioner Vincent reiterated that less than one fifth of the property tax dollars paid in this county goes to county services, and 83 percent of the county budget is funded by non property tax dollars, and that in and of itself deserves a lot of attention, because a lot of people work hard to keep that percentage of non taxable funding high. If that were not done the taxes would have to be raised. He stated that growth does not pay for itself, and if taxation were to be leveled out, they would have to put a moratorium on growth. Commissioner Murdock noted that this is still a preliminary budget and there will be a number of hearings to further amend the budget. **Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a request for final plat approval for the Strang Minor Subdivision, on behalf of former Gallatin County Planner Jennifer Koozer. Preliminary plat approval was granted on March 12, 2002. The subdivision consists of an approximately 28-acre parcel to be divided into two residential lots. The property is generally located at the intersection of Gooch Hill Road and Gant Road. Proposed Lot 1 (~24-acres) is north of Gant Road; Proposed Lot 2 (~4 acres) is south of Gant Road. Ms. Madgic confirmed that Ms. Koozer reviewed all of the conditions of final plat approval and found them to be complete. Therefore, she suggested the Commission issue final plat. Commissioner Mitchell questioned if there was any construction-taking place on the property. Ms. Madgic had not personally visited the site. Commissioner Vincent commented that there were two for sale signs posted on the site. There was no public comment. **Commissioner Vincent moved to grant final plat approval for the Strang Minor Subdivision. Seconded by Commissioner Mitchell. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a family transfer exemption for Mona Moran, located in Section 17, of T3S, R5E. (13830 Cottonwood Road, Bozeman). Mr. O'Callaghan reviewed the staff report, noting that everything appeared to be satisfactory. Mona and Shawn Moran were sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Vincent moved to approve the Moran family transfer exemption, finding that it meets the criteria of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a request for preliminary plat approval for C & H Engineering and Surveying, Inc., on behalf of David Caracciolo and Wendy Williams for the Caracciolo Minor Subdivision, located in the NE ¼ NW ¼ of Section 2, T1S, R5E, PMM, Gallatin County, Montana. The request is to subdivide a ~10 acre parcel into two residential lots. The property is described as Tract 3 of Sager-Stimson Tracts (Sager-Stimson Correction Plat I-5-A). The tract is generally located one-half mile east of Springhill Road on East Baseline Road. Mr. O'Callaghan briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. He noted an error in the staff report on page 2., 5. (c), changing the fill site from Summit Subdivision to Saddle Peaks Subdivision. He explained Section 7.J of the Gallatin County Subdivision Regulations describes both Street Design Standards, and Paving and Street Width Standards. According to these standards, the interior road of this subdivision should have a sixty foot (60') right-of-way width and have a finished gravel width of twenty-two (22'). The applicant requested two variances, a forty-foot (40') right-of-way width, and a eighteen foot (18') finished gravel width. The Road Department supported the variance. Notice was published in the High Country Independent Press on May 30 and June 6, 2002, and certified notice was mailed to adjacent property owners. As of July 1, 2002, no written comment was received. The Planning Board considered the proposal on June 25, 2002, and there was no public comment. The Board discussed concerns about the variances, the need to create a homeowners association for a two-lot subdivision, and the fairness of requiring both impact fees and proportionate reimbursement. The Board unanimously recommended that the Commission grant the variances and approve the subdivision, subject to the conditions recommended by staff as modified during discussion. The Commission needs to make the following determinations: A determination as to whether or not the requested variance

should be granted (According to Section 13 of the Gallatin County Subdivision Regulations, the County Commission may grant reasonable variances from the design and improvements standards of the regulations where it is found that strict compliance would result in undue hardship and it not essential to the public health, safety, and general welfare); a determination as to whether or not the application complies with the Gallatin County Plan; a determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision, the following conditions for final plat approval are suggested (underline and ~~strikeout~~ reflect the Planning Board's recommendations for modifications to staff-suggested conditions):

1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates.
2. Montana Department of Environmental Quality and Gallatin County Health Officer's approvals shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department.
3. One copy of the restrictive and protective covenants encumbering the real property contained within the subdivision shall be submitted to the Gallatin County Planning Department for joint review by the Planning Department and the County Attorney's Office. The final plat application shall include written approval of the covenants by the County Attorney's Office.
4. One copy of the following documents shall be submitted to the Gallatin County Attorney's Office. The final plat application shall include written approval of these documents by the Gallatin County Attorney's Office.
 - a. Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana.
 - b. Bylaws controlling the operation of the property owners' association.
 - c. Certificate of a licensed title abstractor.
5. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district.
6. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty feet (20') wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide, telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.*
7. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval.
8. Applicant shall record the following covenants on or with the final plat:
 - a. *The control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.*
 - b. *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners association, the property owners association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.*
 - c. *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.*
 - d. *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.*
 - e. *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3.*
 - f. *The artificial feeding of all wildlife including big game shall be prohibited.*
 - g. *All garbage shall be stored in animal-proof containers or be made unavailable to animals.*
 - h. *Pets shall be controlled by each homeowner, and not allowed to roam at large.*
 - i. *Owners acknowledge that wildlife damage to landscaping and other property may occur.*
 - j. *Any covenant, which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.*
9. Applicant shall obtain an encroachment permit from the County GIS Department for any access point coming off County-maintained roads.
10. Forty-five feet (45') of Baseline Road South of the centerline shall be dedicated to the public for the entire length of the development.
11. A "no access" strip is required along all lot boundaries that border county maintained roads.
12. All interior roads shall be built to county gravel standards and have a forty-foot (40') right-of-way width, and an eighteen foot (18') finished gravel width.
13. All interior roads shall be dedicated to the public and maintained by the property owners.
14. A cul-de-sac, built to county standards and acceptable to the local Fire District, shall be constructed at the South end of the access road.
15. A pre-construction meeting shall be set with the County Road Department prior to the start of any construction.
16. All roadwork shall be built to Montana Public

Works Standard Specifications (Fourth Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Office in writing. Final approval shall not be given until this documentation is received. 17. A proportional reimbursement of paving costs shall be made to Saddle Peaks Ranch, for the paving improvements of Baseline Road. 18. All areas of the public right of way disturbed during construction activities shall be sodded or reseeded. 19. Applicant shall pay road impact fees in accordance with the Gallatin County Road Impact Fee standards. 20. Applicant shall pay fire impact fees in accordance with the Gallatin County Fire Impact Fee standards. 21. Applicant shall provide a fire protection method in accordance with the Gallatin County Subdivision Regulations, which is acceptable to the Belgrade Rural Fire District. Applicant shall provide a final subdivision plat to the Belgrade Rural Fire District and shall provide written verification from the District that all fire protection requirements have been met. 22. ~~Applicant's shall provide a mitigation plan for sheriff services that is acceptable to the County Commission.~~ 23. Applicant shall have up to three (3) years to complete these conditions and apply for final plat approval. Further discussion took place with regards to potential further subdivision, pertaining to the width of drive, should it someday become a street. Mr. O'Callaghan noted that there were existing covenants stating it cannot be divided into anything smaller than 5-acres. Mark Chandler, on behalf of C & H Engineering and Surveying submitted a property ownership map, labeled Exhibit "A", showing division of the area, pointing out compatibility with adjacent properties. He commented that the reduced right-of-way and road width there would be less impact on the property and less weed maintenance. It was noted that the owners would pay a proportional share of the cost of the fire fill pond. Mr. Chandler stated that it was the general consensus of the Planning Board that the impact fees should cover the paving of Baseline Road, since they would be paying for two lots with no existing structures. Wendy Williams spoke regarding the history of the parcel. Ms. Williams stated the concerns at the Planning Board hearing were that they were paying impact fees on two lots although; they were just creating one lot. At that meeting Gallatin County Planner W. Randall Johnson recommended that they submit a request to have a portion of impact fees waived or try to waive the proportional reimbursement to Saddle Peaks, for having Baseline paved. She noted until they finish the Walker Road improvements, they would not know how much it would cost. The other discussion at that hearing was the covenants, which required a homeowners association of two families, within a homeowners association that already existed in the Sager-Stimson Subdivision. Ms. Williams noted that most of the new covenants dealt with wildlife issues and maintenance of the new road into the two properties. She questioned if there was another way to address those issues without going through the whole process of forming the homeowners association. She explained the reason they requested the 18-foot road was because it was going to serve more as a driveway than a county road. The concern of the fire district was having enough room for two fire trucks to pass one another, and an 18-foot road would serve that purpose for fire protection. Commissioner Mitchell questioned if there was a problem joining the existing homeowners association. It was noted that planning staff was not comfortable with their covenants as they were written in 1973, and bare bones, so according to staff the only way they could make sure the driveway is taken care of and address the wildlife issues, was to attach new covenants to this minor, which will not apply to any adjacent properties. Further discussion took place with regards to whether the road maintenance and some of the other concerns could be made as a statement on the plat. Mr. O'Callaghan stated that Gallatin County Planning Director Jennifer Madgic indicated the covenants that are not part of the covenants that already exist could be added to the plat and so could the statement of who is responsible for the paved roads. He mentioned that some of the standard covenants were developed with Fish, Wildlife and Parks and that they were still of concern in an area already developed. Commissioner Murdock was concerned, whether or not the covenants would have the same effect if they were on the plat, such as the mutual covenant with the Commission. Mr. O'Callaghan noted that traditionally there has been a homeowners association created with two-lot minors for legal reasons. Ms. Madgic pointed out that they have required subdivisions created within existing subdivisions to join the existing homeowners associations, which she suggested they do. However, they also required covenants that are un-revocable that can be placed on the plat or filed with a subdivision which is separate from the overall umbrella subdivision and still have the same legal force that they would have if they were part of the overall homeowners association. She noted that the same language is in covenant 8(j). It was agreed that they should leave the condition as written. Commissioner Murdock questioned conditions #17 and 19, stating he would support those conditions if the impact fees would supersede the proportional reimbursement. Ms. Madgic commented that it goes both ways, as they would pay impacts fees and the proportionate reimbursement, and the questions was whether they will pay impact fees on both lots. Further discussion took place with regards to the impact fees and the proportionate reimbursement. Ms. Williams commented that the existing covenants addressed noxious weeds. Commissioner Mitchell suggested having a condition to join the existing homeowners association, and then make it an either/or condition that the items will be addressed by the existing homeowners association or be added to the plat. Ms. Williams noted that when they bought the land they automatically joined the homeowners association. **Commissioner Mitchell moved to approve the variance request from a 60-foot width right-of-way and gravel width of 22-feet down to a 40 foot**

right-of-way width and an 18-foot gravel width, finding that the potential of having future additional traffic and continuation of the road is remote at best and that this would not be contrary to the general Master Plan, Gallatin County Subdivision Regulations and State Statutes. **Seconded by Commissioner Vincent.** Commissioner Murdock added that strict compliance would result in undue hardship and it is not essential to the public safety and general welfare. **None voting nay. Motion carried.** Mr. O'Callaghan made the following as condition #4: Applicant shall join the existing homeowners association or form a new homeowners association. If a new homeowners association is formed, all the conditions that currently exist, as condition #4 would apply. The numeration of the rest of the conditions was moved up. The applicant agreed to the conditions as amended. **Commissioner Mitchell moved to approve the request for preliminary plat for the Caracciolo and Williams Minor Subdivision, with the conditions as amended, finding it meets the Gallatin County Subdivision Regulations, State Statutes and the County Master Plan. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:21 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 16th DAY OF JULY 2002

The meeting was called to order by Chairman Bill Murdock at 9:08 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

JULY 8, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. The Commissioners considered approval of claims listed on the voucher list dated July 3, 2002, including check numbers 8011730-8011736, totaling \$151,752.51. Commissioner Vincent made a motion to approve said claims. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a State of Montana Board of Investments Intercap loan program application to complete the liner at the Logan Landfill. A refuse district has not been created so Gallatin County is fully responsible for this necessity. The loan is for \$999,995.00 and carries a variable rate of 2.65% currently. Commissioner Mitchell made a motion to borrow the necessary funds, through the Intercap loan program to complete a new liner at the Logan Landfill, as recommended by the Finance Officer. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget transfer request from the Auditor's Office. Commissioner Mitchell made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget transfer request from the Youth Probation Department. Commissioner Vincent made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

JULY 9, 2002

- The Commissioners conducted regular County business.

JULY 10, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell, Road and Bridge Superintendent Lee Provance, and Commission Assistant Glenda Howze. The Commissioners discussed the proposed bike path along Valley Center Road. The Montana Department of Transportation, along with WGM Group, are drafting the plans for the redesigning of Valley Center Road. Currently the design includes eight

foot shoulders, a fog line, and rumble strips. MDT will “rough” in the trail during the construction of the road if the County wants them to. If this is done, it will not necessarily meet ADA standards and no one will be named as the maintainer of the trail. However, the County could construct the trail, paid in part with CTEP funds, and meet all requirements for ADA and be responsible for maintaining. The Commissioners stated that they do not want a paved trail, but they do want it separated from the road. They also noted that they wouldn't mind shortened shoulders if MDT would agree.

The Commissioners met with Ris Higgins, Mike McKenna, Alicia Bradshaw, Finance Officer Ed Blackman, and Grants Accounting Clerk Jennifer Blossom. Mr. McKenna explained that he is the Chair of the membership committee for Gallatin Development Corporation, working to enhance the quality of life of those living in the Gallatin valley. GDC needs assistance with funding for a needs assessment for to complete the Comprehensive Economic Development Strategy (CEDS). Ms. Blossom noted that there might be some funds left over in the SBIR that could be used. The approximate cost will be \$50,000 and will be used for collecting data, planning, and providing information for the future. This will in turn help the County stabilize its tax base and allow growth. It was agreed that more information would be provided to the Commissioners at a later date.

Commissioner Murdock made a motion to request Taylor, Hanson and Kane Architects perform a building inspection and analysis on the Martel/Bienvenue Low-Rise building, providing a cost estimate before beginning the work. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JULY 11-12, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated July 11, 2002, in the amount of \$186,445.91.
2. Consideration of Contract(s): Food Stamp Nutrition Education Program Support Agreement; Legal Advertising Contract w/High Country Independent Press; and Grant Award from the Montana Board of Crime Control for the Gallatin County Victim Witness Grant Program FY 2003.
3. Request for Common Boundary Exemption for Larry Wilcox and Ronald and Rachel Thein, described as Lots 14 and 15 of Cheri Subdivision in the SE ¼ of Section 28, T1S, R4E (west of Belgrade on Heidi Lane). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

There was one vacancy on the Open Lands Board due to the resignation of Ray Rasker. Appointment to fill this position will be for the remainder of Mr. Rasker's term, to expire February 9, 2004. To date, two applications were received from Don Jackson and Gus Pfaehler. Grace Morgan on behalf of the Open Lands Board requested that the appointment be postponed until their next meeting in August, in order to give the Board a chance to review the applications. Commissioner Vincent questioned if the Board was endorsing Mr. Jackson. Ms. Morgan was unaware of endorsing an applicant. Commissioner Mitchell noted that the application period was closed, and there were two applications, one of which she believed had the background and was well suited for this Board. She did not see any point in postponing the appointment although, she appreciated Ms. Morgan's concern. **Commissioner Mitchell moved to appoint Don Jackson. The motion died for lack of a second.** Commissioner Murdock concurred. However, in deference to the Board, and given some recent acrimony with other boards he preferred to wait. Further discussion took place regarding when the Board could meet. **No action taken.** The Gallatin County Commission in conjunction with the Cities of Bozeman, Belgrade and Three Forks and the Town of Manhattan is creating a Solid Waste Management District Formation Advisory Committee. The Committee will be charged with developing a Resolution of District Formation, By-Laws for the District, Goals, Objectives, Procedures a Draft Landfill Operations RFP, and a Draft Budget. The board will consist of two citizen members, a representative of the municipalities of Belgrade, Manhattan, and Three Forks, two representatives of the municipality of Bozeman, an employee from BFI Waste Systems, and one County Commissioner. To date applications have been received from Joe Mennicucci (Belgrade Representative), Phil Olson (Manhattan Representative), Ray Noble (Three Forks Representative), Dean Ulrich (BFI), Greg Underhill (HKM Engineering), Kathy Gallagher (Hydrologist), and Dave Pruitt (Retired County Commissioner), and the

City of Bozeman submitted the names of Roger Clingman and Lee Hietela as their representatives. The appointees to this committee will attend meetings for the next year, or until the draft documents have been completed. There was no public comment. Although his name was not on the list and because of the highly technical nature and his background and commitment in this field, Commissioner Vincent nominated Gallatin County Grants Administrator Larry Watson. It was noted that Mr. Watson preferred not to be appointed to the Board although he would assist the Board. Commissioner Vincent stated that he would by-pass that motion. **Commissioner Vincent nominated Dave Pruitt, as a citizen member. Seconded by Commissioner Murdock. The Commission discussed appointing a designee to represent the Commission. Commissioner Vincent amended the motion to appoint Dave Pruitt, as the Commission's representative. Commissioner Murdock amended the second. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Kathy Gallagher and Greg Underhill as the two citizen representatives. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to follow through with all the nominations as proposed by the municipalities-Joe Mennicucci-Belgrade, Phil Olson-Manhattan, Ray Noble-Three Forks, Dean Ulrich-BFI, and Roger Clingman and Lee Hietela for the City of Bozeman. Seconded by Commissioner Vincent. None voting nay. Motion carried.** One vacancy exists on the West Yellowstone/Hebgen Basin Refuse District Board #2 due to the term expiration of Fred Rice. This is a three-year term to expire June 30, 2005. Mr. Rice was notified, and indicated a desire to be reappointed to this position. To date, no additional applications were received. There was no public comment. **Commissioner Mitchell moved to reappoint Mr. Rice. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

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Gallatin County RID Attorney Susan Swimley reported on the discussion regarding proposed boundaries for the Amsterdam RID, and submitted a revised map for the proposed Amsterdam RID district, labeled Exhibit "A". It was noted that this would be referred to as Amsterdam RID #2, as they were essentially starting over, with a change in the boundaries and the assessment methodology. Ms. Swimley pointed out that the new proposed boundaries now expanded back to include all the property up to the interstate with a northeast dividing line being the interstate, the west boundary tracts with people who would access down to Amsterdam as opposed to taking the Thorpe/Frontage Road, and to the north and west. They used the river slightly as the boundary and then extended the southern boundary down to properties that appeared to be driving up to Amsterdam to access the improvements as opposed to going south to Frank Road. There are four assessment methodologies, all to be done on square footage. Those are as follows: Single-family residential assessment, which would be the size of the lot/or no more than 4700 square feet. This would put everyone's assessment in that category at about \$70 per year; Multi-family, which is only in River Rock because the Zoning District defines what can be multi-family, and that would be the size of lot or 10,545 square feet; Commercial or Industrial, which would be the actual size of the lot or 15,400 square feet and no more. Some of the lots in High K are not only commercial but they are also, residential and in that case all of the lots that share both commercial and residential were assessed at the residential level; and Government or a Public Use Lot, which are the school, Montana Power unit, sewer district building, and a county gravel pit. The governmental lots are to be assessed at their actual size/ or no more than 5 acres. It was pointed out that now with this expanded district, the county now has a parcel to be assessed. Ms. Swimley noted that the Treasurer and the Fiscal Officer asked her if it was possible for the county to not assess themselves. She stated that it was possible for the Commission to make a determination that the parcel would not benefit from this improvement however that would have to be a factual determination. She noted that bond counsel Mae Nan Ellingson stated that it would be difficult for the county to find the facts that would say this county parcel is not benefited by these improvements. Ms. Swimley hoped to have feedback from the Commission after the presentation with regard to whether or not they like these boundaries and the four different categories of square footage assessment, and also if they still intended to still use impact fees to purchase down the improvements prior to the bond sale, so they could continue to direct the process in the formation of this RID. She also noted that some people in High K were not happy with the improvements from Royal Road to the bridge, and she requested input from the Commission on that as well, whether or not those improvements should be included. Other issues she requested input on was whether or not the Commission was still under the original decision to waive the petition process and if they were still requesting a public meeting be held in Belgrade, and how it was to be set up. She believed this would address problems with the assessment formula that were expressed at the prior hearing although, she did not know if it would address the concern High K residents had with regard to improvements from Royal Road west to the river. Ms. Swimley explained that anything undeveloped was being assessed at residential, because they don't know what it will be, and they cannot continue to adjust the assessment methodology as things develop. Commissioner Mitchell was in agreement with the boundaries and believed they were getting closer. However, she preferred to have the neighborhood's input and wondered what Ms. Swimley thought the potential for getting signatures at this point would be. Because the size of the district, Ms. Swimley believed in order to go out and collect

signatures from people in favor of it would be so onerous that it would kill the RID. She thought if the Commission liked the boundaries they could send out letters to all the parcel owners, notifying them of the public meeting and that would be an effective way to do public outreach. She stated if the impact fees were used and later found to be illegal, then Jason Leep on behalf of PC Development, which paid 90% of the impact fees would be willing to sign a waiver that would say if they were declared illegal they would not ask for them back. Mr. Leep confirmed the statement. She also added that PC Development would be willing to sign a waiver to be assessed for what they intend to plat for that area. Project Engineer Rick Kerin gave a breakdown of all the figures for the 20-year term of the bond, and the yearly, and monthly cost, with and without impact fees. Public comment: Sonja Berg questioned how her leased parcel would be assessed. Commissioner Murdock believed this was progress although; the true test would be the meeting in Belgrade. The Commission agreed the meeting would be an informational meeting, and not a Commission public meeting. Ms. Swimley was to coordinate when and where the meeting would take place. Gallatin County Road and Bridge Superintendent Lee Provance reiterated that he believed the improvements from Royal Road to the bridge should be made at the same time because of access problems and some commercial lots. Ms. Swimley questioned if it was the Commission's general intent to consider using the area impact fees, which would be subject to a separate hearing and presentation. The Commission concurred that it was their intent. Commissioners Murdock and Vincent stated that they were not in favor of requiring them to collect 60% of the signatures. Ms. Swimley stated that they were aware of Ms. Berg's concerns and believed they had addressed it. She confirmed that she would set the meeting and a notice would be sent to everyone on the assessment list. **No action taken.**

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Gallatin County Attorney Marty Lambert reported on receipt of the petition and resolution of intent to create Hyalite Meadows RID. Mr. Lambert stated that he reviewed the petition, showing 16 signatures out of 28 lots, or 57%. He noted a certification from Gallatin County Clerk and Recorder showing 15 signatures out of 28, or 54%. Noting there were over 50%, he believed that there was very little chance that it would be protested out. There was no public comment. **Commissioner Vincent moved to adopt Resolution RID-02-383A. Seconded by Commissioner Mitchell.** Project Engineer Rick Kerin made the following findings: The estimated market value of the property in the district is increased by more than the special assessment, as demonstrated on the exhibit accompanying the resolution; The diversity of ownership of the property is diverse finding that in 2 instances 2 lots, parcels, or tracts are held jointly by two owners. In 1 instance two owners have interest in a single parcel and those same owners have a joint interest in an additional lot, parcel or tract. The remaining lots, parcels, or tracts are held in separate ownership; There are no special assessments due in this district; There are zero mortgage backed bonds or levies of record against property in this district; The following tax delinquencies exist in the District: There are 2 parcels with delinquent taxes amounting to a total of \$1,359.57. Of the \$1,359.97 in delinquent property taxes, one lot, parcel or tract is delinquent \$1,181.44 and one lot, parcel or tract is delinquent \$178.53. The estimated market value of the lots, parcels, or tracts, in the district exceeds the sum of the delinquent property taxes and current property taxes; there are 28 lots, parcels or tracts in this district. The total land value before improvement is \$4,344,928. The total land value after improvements is \$4,545,128 (value of lots plus the cost of improvements). The delinquencies do not raise an issue of concern for the Commission regarding this Rural Improvement District. The public will receive benefit of improved road surface, better access, improved storm drainage and reduced yearly maintenance; and this is not a newly platted subdivision. Hyalite Meadows Subdivision was platted in 1975. Commissioner Murdock entered Mr. Kerin's testimony as findings. **None voting nay. Motion carried. Commissioner Mitchell motioned to pledge the revolving fund, based on the same findings. Seconded by Commissioner Vincent. None voting nay. Motion carried.** The Commission directed the Clerk and Recorder's office to mail notice for the protest. The hearing date is scheduled for August 6, 2002.

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Commissioner Murdock announced the public hearing and consideration of the first reading of a Speed Reduction Ordinance for East Baseline Road. Gallatin County Road and Bridge Superintendent Lee Provance reported that there were two separate speed studies conducted, one in mid May and one in mid July. The reason for the study duplication was because road construction had begun and Mr. Provance felt that traffic speeds were lower at that time. The May study concluded the mean and 85 percentile speeds were 37 mph, the July study concluded the mean and 85 percentile speeds were 45.8 mph. Taking into consideration site distance, curves, activity and driveways along the road, Mr. Provance recommended that a safe and reasonable speed for East Baseline Road was 35 mph from the intersection of Springhill Road to 200 feet east of the intersection of Hamm Road and 45 mph from 200 feet east of the intersection of Hamm Road to the intersection of Bostwick Road. Public comment: Larry Sonnenberg spoke in support and submitted Exhibit "A", written testimony. Although he submitted the

initial petition with a 35 mph speed limit for the entire distance, he agreed the recommendation by Mr. Provance was reasonable. Eric Atkinson stated that Mr. Provance addressed the concerns although ideally they preferred 35 mph. Because of the time it takes for an ordinance to go into effect, Dr. Sonnenberg requested the placement of temporary speed limit signs in the area. Mr. Provance agreed to put a sign close to Springhill Road that would read "Speed revision ahead", and install posts with advisory signs stating the new speed limits. **Commissioner Mitchell moved to approve the first reading of Ordinance #2002-06, including all testimony of the public prior to the reading. Seconded by Commissioner Vincent. None voting nay. Motion carried.** The second reading is scheduled for July 30, 2002.

Commissioner Murdock announced the public hearing and consideration of receipt of five separate petitions to abandon portions of Magenta Road, Central Street, Azure Street, an un-named road and an alley, all within the Rainbow Subdivision in the Four Corners area. It was noted that Gallatin County Clerk and Recorder Shelley Vance was unable to attend. Commissioner Mitchell announced that Ms. Vance's certification reported that she examined all five petitions and pursuant to Section 7-14-2601 MCA 2001, they contained the signatures of at least 10 qualified freeholders in Gallatin County. Public comment: Mike Kvasnick spoke in opposition regarding all five petitions, noting this has been an on going problem in this area. He pointed out the area on a map labeled Exhibit "A", (not submitted for the record). Marty Gagnon representing Morrison-Maierle on behalf of the Northstar project made some points of clarification, referring to maps of the area, labeled Exhibit "B" and "C". He did not believe they would be affecting traffic flow in this area or any accesses. He added that it would be a better situation than currently exists. **Commissioner Mitchell moved to accept the five petitions, to abandon an un-named unimproved road, an alley, Azure Street, Central Street, and Magenta Road, finding that these petitions met the qualifications of the Clerk and Recorder. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell and Gallatin County Clerk and Recorder Shelley Vance were appointed to view the road with the assistance of Gallatin County Road and Bridge Superintendent Lee Provance.**

President of the FORParks Friends for Regional Parks, Inc., Paul Weingart reported on the public hearing regarding the park application and request for support of a \$2.3 million dollar grant from the Gallatin County Open Space Bond Fund to purchase 100-acres of land for a county park. Mr. Weingart gave a brief introduction of the slide show which outlined the vision/purpose; history; site selection; strategy for initial development; recommendation for future development; voter expectations; and window of opportunity. Vice-President Martha Lonner outlined the chronological history of the group's efforts. (December 1999-July 9, 2002). Ms. Lonner also summarized the selection criteria for the park site, location and access. Dick McConnen spoke regarding the appraisal, what was included with the land, who will pay for the land, strategy for park development, anticipated current projects, costs and the conceptual plan. Joe Urbani on behalf of Urbani and Associates explained the nature of the park lake complex and how they were developed. Wetland Scientist/Biologist Lynn Bacon spoke of the wetlands that she delineated in 2000, and pointed out the enhancements that are planned. President of the Gallatin Valley YMCA, Inc. Bratton DuBose spoke in terms of the YMCA motto and told of the benefits that the YMCA has to offer and their plans for a facility in the park. Structural Engineer Jason Hicks on behalf of Morrison-Maierle submitted Exhibit "A", a plan view of the proposed amphitheater. Mr. Hicks spoke regarding the design, location, and structural aspects of the amphitheater. Mr. McConnen spoke regarding the design of the core trail system, the parking lot, the design and uses of the group family activity area, and potential future projects. Bob Lee on behalf of Morrison-Maierle added that they would continue to provide consulting engineering services on an as needed basis. In summary, Mr. McConnen gave an overview of the location, finances and the goals of the Regional Park Board. The Board believed this was the "Window of Opportunity" to help build a stronger Gallatin County Community. It will enhance the quality of life for the people of Gallatin County and generate benefits that will start soon and last far into the future. Public comment in support: Norman Bishop representing the Audubon Society; Denny Klewin; Jeanne Eggert; Cora Lynn Larson representing the Northwest Neighborhood Association; Anna Epp; Tracy Velazquez; Eva Patten; Ken Bies; Cindy Younkin; Terry Lonner; Mary Geis representing the League of Women Voters and the BWAG's; Lynn Bacon read written testimony of Wren Bade; Lynn Bacon; Lillian Lund; Bob Yaw; George Mattson; Ed Anacker; Betty Litle; Mary Van't Hull, submitted Exhibit "B", names of those who could not stay and testify; and Carol Kolarich. Much of the testimony expressed the benefits that this regional park would bring to the community. Many stated that the voting public expected some of the Open Space bond money to be used for a regional park. Public comment in opposition: Dale Gillespie did not like the location and could not see the benefits for the money that was to be spent. He stated that once this land is converted into parkland it loses the ability to be subdivided and it is not worth \$23,000 an acre, and

worth \$3,000 to \$6,000 at the most. He recommended if the Commission voted for this, that the value is held in the agreement with Jerry Williams, either to buy it back if the organization can not get all the money to fund the park or work it out so the zoning stays in place. He also questioned if this was being used as part of Mr. William's park that is needed for his subdivision. He spoke regarding the estimation of how much it will take to finish the park and the maintenance costs. Mr. Gillespie suggested the County consider the idea of taking the Fairgrounds and converting it to the Mandeville and State land property with new infrastructure and ponds and using the current Fairgrounds property for low-income housing. Glen Hockett was signed up to speak and was unavailable. Commissioner Vincent added that Bozeman High School Principal Godfrey Saunders was unable to stay and requested that his support for the proposal be noted and that he was especially in support of the YMCA. Mr. McConnen replied to Mr. Gillespie's request regarding the Mandeville and State property, noting that they had considered that property and financially it would have been good. However, they found serious access and noise problems in that location. Discussion took place regarding ownership and planned uses of adjacent properties. Mr. Williams answering for the Williams property stated that they had a master plan community, and there will be residential, some business park and an equestrian center. It was not yet determined as to how much parkland there would be. He pointed out that they have run water lines, which border the regional park adding that in the near future it is their plan to bring in the sewer lines. Commissioner Murdock asked Mr. DuBose if the YMCA would commit in writing to locating a facility here, pending successful financing. Mr. DuBose stated that the local board was behind this site and there was no problem making a commitment. Commissioner Murdock stated that it was important to him in this project because it would make a difference without a YMCA. Mr. DuBose pointed out that they needed trails and other user groups and that they did not want to be isolated. He added that if their facility were located at the park, they would cost share in the maintenance. He believed realistically they would be breaking ground within 3 years, and it would depend how the community steps with regards to donors. Commissioner Mitchell pointed out several other parks that were not complete and questioned how they would come up with the money. Mr. DuBose noted that they have a very strong National organization helping them, and it gave them some confidence that National said they have had more requests from the people in the Bozeman area than any other city in the country. In summary, he believed the need and support were there.

Commissioner Vincent reported that a memo dated July 15, 2002, from Gallatin County Chief Civil Attorney Chris Gray's states that upon his review of this matter, and knowledge of the proposed transaction and if the Commission votes to approve use of \$2.3 million for the FORParks Application, that he would suggest and advise finding that: the FORParks' application was submitted on or about January 9, 2002, under the Gallatin County Application Process For Open Space Preservation Funds, Adopted 10/9/01 and amended on 12/11/01; the Open Lands Board has reviewed and evaluated that application in accordance with that Application Process and recommended its approval; and the record, based on all the testimony, documents and other materials supports the approval and funding of the application. Therefore, Commissioner Vincent moved approval of the Friends of Regional Parks, Inc. application for funding of the purchase of approximately 100 acres of land, as described in the application, from the Gallatin County Open Space Fund where Two Million Three Hundred Thousand Dollars shall be paid to Baxter Meadows Development L.P. upon the following conditions: 1. That the transaction comply with all state and federal law; 2. That Gallatin County conduct all normal and accustomed due diligence to determine the suitability of real estate for County ownership and use as a Regional Park; 3. That the real estate transaction be memorialized in a written Agreement to Sell and Purchase between Gallatin County and Baxter Meadows Development L.P.; 4. That Gallatin County and Baxter Meadows Development L.P. enter into a written contractual relationship, with adequate security, to complete the design and construction of the following: A. Two ponds approximately located as set forth in the Regional Park Conceptual Master Plans as presented in the application and this hearing; B. Dirt and excavation work for the Amphitheater located as set forth in the Regional Park Conceptual Master Plan as presented in the application and this hearing; C. Construction of 600,000 square feet of trails approximately located as set forth in the Regional Park Conceptual Master Plans as presented in the application and this hearing; and D. Excavation and installation of gravel base for a 400 space parking lot on the Property as presented in the application and this hearing. He noted that additional conditions could be attached to this if the Commission felt necessary although, he was not adding any at this time. 5. A covenant, running with the land, on the real property restricting its use for public park purposes, with the only use allowed thereon being a non-profit recreational facility such as a YMCA consistent with the Open-Space Land and Voluntary Conservation Easement Act.

Commissioner Murdock stated that he would second the motion if Mr. Gray agreed to the motion as read. Mr. Gray made one correction, noting that (4) C., should be 60,000 square feet, rather than 600,000 square feet. Commissioner Vincent amended the motion to reflect that change. Mr. Gray confirmed that if the motion were passed it would be his advice that it follows the proper procedures to expend the money. **Seconded by Commissioner Murdock**, adding that he came to the realization and it was quite clear to him that it was the intention of many voters and that it was evident

in the precinct votes that people intended for this money to be used not only to buy conservation easements from the ag community but, was also the intention to use for acquisition of parkland. He was comfortable with the money being used for parks however, his problem was more with the amount of money and how they will maintain and develop, not just this park but, any park. He hoped the Commission would get behind the creation of an administrative structure, such as a Parks and Recreation Board or some form of structure to build, maintain, and develop regional parks. He suggested if there were other groups around the county with good projects, to come forward and maybe they too could be funded with this bond money. Commenting that he did not see this as the end of a process, Commissioner Murdock hoped it would be the beginning of a long process where residents would support parks, recreation and open space acquisition. He believed it was in the public interest, adding that he would pledge to work towards creating the administrative structure and hoped everyone else would as well. He was very proud of the voters of Gallatin County for voting to pay \$10 million dollars for parks and conservation easements, and now it was a matter of groups like this to come forth with a proposal. Commissioner Vincent concurred, noting that no proposal is perfect and that commitments were made long before there were answers. He agreed that this regional park is now reality, at least in regard to the land and that they would do what is necessary to make it work right. In his mind there was no alternative, if they weren't to do this today when, where, and how, as prices will continue to rise and opportunities will be lost. He added that what seems out of line, to expensive, or unnecessary today often looks like a god send a few short years down the road. He stated that it preserves open space; provides full public access; it is a central location; leverage is provided, there is a high probability that the YMCA will locate there; and the appraisal was in line. Commissioner Vincent noted that this park is for everyone and the park delivers on a promise, a promise in the Open Space Bond issue itself. Commissioner Mitchell stated that she could not support the proposal because of some weak points. She could have supported it if it was a third of the amount of money and if she had letters in support rather than against this proposal from community leaders of the people of Manhattan, Belgrade, Three Forks and West Yellowstone and if a greater number of the Open Lands Board members had a comfort level to support this proposal, rather than voting 7:5. She believed in parks and could have supported it if there were more creativity, realistic phasing, and a maintenance program, such as a plan to annex into the City of Bozeman making it a joint effort. She also mentioned that there was no financial sheet, only the estimated cost of anticipated projects and that did not give her solid financial security. She commented on the Commission's history for supporting parks, trails, open lands, and recreational opportunities. Commissioner Mitchell noted that the last time the Commission gave park money collected in lieu of parks they were so impressed with the proposals from various subdivisions that they divided up the money evenly, giving them an incentive match for the development of the parks and the people to maintain them. It was no criticism to those involved however she stated that this project was a huge undertaking, and she expected more in a cost match, and for it to be phased. She believed that once they purchased the land they would be coming back for more money, and it was not fair, because it left no money to be spend in the other communities. She stated that they did not have a good history in completing anything around here. She noted that the Commission received several letters and emails prior to this and she wanted them to be included in the record from the Chamber of Commerce and various individuals. She stated that this is an exciting proposal and it would take a large population to support it. She noted that the County has the Fairgrounds and a manager and they have been putting capital into improvements and it is very expensive to maintain and add improvements. Commissioner Mitchell commented in reference to the Commission's letter of support that the group referred to, stating that they are asked to write letters of support all the time, but unless they say financial support, it is not a promise to financially back anything. She stated that the primary purpose of the Open Lands bond issue was to preserve agriculture, and not form a parks department or to provide maintenance or construction of the park. She envisioned it as some incentive money for improving established parks and public accesses. Should this pass, Commissioner Mitchell stated that the ag community and a number of other people in the county and city that did not intend for \$2.3 million to be spent for a park will not vote to support another bond issue. She also noted that the developer paid less than \$8,000 per acre, which is a \$15,000 per acre profit with no streets, gutters or sidewalks. She stated that there were 70 acres of the Rose and Bronken Parks that are not complete and in the same general vicinity. She could see the developer donating part of this (ForParks) as part of his development and the county purchasing more to add to the 100 acres. Commissioner Vincent added that sometimes you have to take the leap of faith and in regard to future funding maybe this should be a test of our community to make this a place for our families and kids to feel safe. He agreed with Commissioner Mitchell that this does present a challenge. Commissioner Murdock added that he shared Commissioner Mitchell's concerns, and was very close to her point. The one thing that changed his mind was the fact that the people voted for it and expected it to be used for parkland acquisition. He reiterated the need to come up with some kind of administrative funding structure. Commissioner Vincent noted that an independent appraiser determined the price. **Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 3:58 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 23rd DAY OF JULY 2002

The meeting was called to order by Chairman Bill Murdock at 9:03 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

JULY 15-16, 2002

- The Commissioners conducted regular County business.

JULY 17, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, and Commission Assistant Glenda Howze. The Commissioners considered approval of claims listed on voucher list dated July 15, 2002 including check numbers 8012170-8012189, totaling \$52,264.63 (check number 8012183 has been voided). Commissioner Vincent made a motion to approve payment of said claims. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget appropriations transfer request from Justice Court. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget appropriations transfer request from District Court/Law Library. Commissioner Mitchell made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of inventory control purchase request from Extension Services for a lap top computer. Commissioner Mitchell made a motion to approve said request, finding that the ITS Department has approved the request. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a request to charge tipping fees at the Logan Landfill. Commissioner Mitchell made a motion to approve said request, finding that Finance Officer Ed Blackman has recommended approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

JULY 18-19, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated July 18, 2002, in the amount of \$206,297.16.
2. Consideration of Contract(s): Negotiated Agreement between Gallatin County and GRH Unit; and City of Bozeman Library Service Agreement.
3. Request for Relocation of Common Boundary Lines Exemption for Tom and Linda Hinman, located in Sections 34 and 35, T1N, R5E (5323 Hamm Road, Belgrade). Gallatin County Planner Sean O'Callaghan reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundary Lines Exemption for John and Chandra Morris, located in the SE ¼ of Section 3, T3S, R5E (8051 Fowler Lane, Bozeman). Gallatin County Planner Sean O'Callaghan reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Relocation of Common Boundary Lines Exemption for Gwendolyn Nelson Taylor, personal representative of the Eula May Lessley Estate, located in Section 11, T2S, R5E (immediately west of and adjacent to Kirk Park. Gallatin County Planner Sean O'Callaghan

reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock noted that regular agenda Items #6 and 7, a public hearing request for final plat approval and consideration of a request for improvements agreement for the Saddle Peak Estates Major Subdivision would be moved to the end of the agenda. Gallatin County Planning Director Jennifer Madgic requested that regular agenda Item #9, public hearing and request for consideration of a resolution adopting subdivision, floodplain and zoning fees be continued until July 30, 2002.

Commissioner Vincent read the consent agenda. There was no public comment. **Commissioner Mitchell moved to approve the consent agenda, as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Phil Forbes on behalf of Morrison-Maierle reported on the receipt and opening of construction bids for Looking Glass RID #380. It was noted that this also was the bid opening for the 2002 RID maintenance. The bids were as follows: JTL Group, Inc., P.O. Box 9, Belgrade, contractor #10089- Schedule #1- \$33,847, #2- \$24,254, #3- \$3,596, #4- \$8,876, #5- \$5,703, #6- \$96,045, totaling \$172,321; Big Sky Asphalt, Inc., P.O. Box 835, Bozeman, contractor #7581- Schedule #1- \$27,033, #2- \$20,308, #3- \$4,495, #4- \$9,510, #5- \$9,505, #6- \$71,095.50, totaling \$141,946.50; Gallatin Asphalt Inc., 6465 River Road, Bozeman, contractor #10604- Schedule #1- \$22,243, #2- \$17,185, #3- \$7,192, #4- \$4,755, #5- \$7,604, #6- \$58,049, totaling \$117,028. All the bids were signed, acknowledged addendum #1, and contained a bid bond in the amount of 10%. Mr. Forbes took the bids under advisement for one week and will return on July 30, 2002, with a recommendation. **No action taken.**

Gallatin County Fiscal Officer Ed Blackman reported on receipt and opening of bond bids for Looking Glass RID #380. One bid was received from KMS Financial Services, Inc. 300 N. Willson, Suite 202B, and Bozeman. It was noted that the actual bidder was Montana Municipal Cooperative and a bid bond was submitted; there was no bond discount; and a total interest rate of 5.97, based on estimates provided. Mr. Blackman took the bid under advisement to confer with and Gallatin County Treasurer Anna Rosenberry to make sure the extensions were accurate and will return on July 30, 2002, with a recommendation. **No action taken.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing and consideration of a cost share agreement for paving a portion of Jackson Creek Road. The request was received in letterform last February and the petition was signed by approximately 30 individuals requesting to pave an additional 1.7 miles of Jackson Creek Road, adjoining the 1.3 miles paved last year. Mr. Provance confirmed that it was within the guidelines of the cost share policy and that the cost share percentage would be between 25 and 30 percent on the individual's part and 65 to 75 percent for the county's share. He recommended going forward with the project because they had budgeted funds and because the last project turned with a lot of positive feedback. From his observation speed and accidents were down. Further discussion took place regarding when the project could be started. Public comment: Richard Burke; Albert Scharen, submitted two letters of support labeled Exhibit "A", John and Carol Worley, and Exhibit "B", Alan and Molly Iddles; Bill Shields; Bruce Jodar; Guy Coats; and John Goodman. Mr. Provance clarified that the ban on through truck traffic was only temporary until the Commission passed a full-time ban, which is currently being reviewed by the County Attorney. The majority of public comment expressed support, noting improvement with safety, dust, and response time for emergency vehicles. Concerns expressed through public comment were hesitation to support the paving initiative in its present form due to unanswered questions regarding the terms and process of the participatory agreement with residents, costs, and traffic safety. **Commissioner Mitchell moved to approve the cost share agreement for paving an additional 1.7 miles of Jackson Creek Road. Seconded by Commissioner Vincent.** Mr. Provance explained the differences in longevity and costs regarding asphalt and chip seal. Speaking in favor of the project, Commissioner Murdock believed that the benefits of paving far outweighed the problems. Commissioner Mitchell concurred, noting that she heard nothing but positive comments from the general public with regard to safety. It was noted an additional letter of support was received from Ann and Dan Alsaker and a letter in opposition from Naomi and Jonathan Blacher in opposition. **None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and request for consideration of adoption of the Code of the West. Ms. Madgic explained that the booklet was a series of statements intended as a guideline and an introduction to some of the realities of rural living for those who are otherwise unfamiliar. She briefly summarized some of the topics regarding road and access, cell phones, open fields and pastureland, snow, and animal manure. Further discussion took place regarding the best way to get the booklet distributed. Ms. Madgic suggested real estate groups as well as county departments and the Chamber of Commerce. Commissioner Vincent had some brief suggestions to add to the booklet regarding emergency services and response time; dust; noxious weeds; and weather. Ms. Madgic stated that they would be adopting the concept and additional suggestions were welcome. Commissioner Mitchell acknowledged all those who worked on the Code of the West, and volunteered to help circulate the booklet. Mr. Provance questioned the method of adoption and the funding. Commissioner Murdock stated that there was no legal requirement that would require a public meeting however, for the benefit of getting the word out, they should. Commissioner Mitchell suggested they decide how many they need to have printed and consult with Gallatin County Fiscal Officer Ed Blackman regarding the funds. **No action taken.**

Gallatin County Planning Director Jennifer Madgic on behalf of former Gallatin County Planner Jennifer Koozer reported on the public hearing and consideration of a request for final plat approval by C & H Engineering for the Smith Minor Subdivision. Preliminary plat approval was granted on January 29, 2002. The proposed three-lot minor subdivision consists of a parcel approximately 30 acres in size, described as Tract 1 of COS 1613-A, located in the SE ¼ of Section 36, T6S, R3E, PMM, Gallatin County, Montana. Ms. Madgic stated the conditions are complete. Phillip Smith the developer noted a typographical error on the staff report he received which noted the Kamps Second Minor Subdivision. **Commissioner Mitchell moved to approve final plat for the Smith Minor Subdivision, based on staff's recommendation, finding it meets the Montana State Statutes, Gallatin County Master Plan and the Gallatin County Subdivision Regulations, and with the conditions as outlined in the staff report having been met. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Manager of Subdivision Zoning and Review W. Randall Johnson reported on the public hearing and request on behalf of Allied Engineering Services, Inc., for a one-year extension of the preliminary plat approval for the Gallatin Peaks Uplands Cluster "A" Major Subdivision. Preliminary plat approval was granted on August 10, 1999, expiring August 10, 2002. The proposed subdivision would create 9 residential lots, located south of the West Fork Meadows area of Big Sky. Section 3.D.7 of the Gallatin County Subdivision Regulations gives the Commission the authority to grant a one-year extension of preliminary plat approval. If approved by the Commission, the preliminary plat of the Gallatin Peaks Uplands Cluster "A" Major Subdivision, would expire on August 10, 2003. Developer Bill Simkins commented that the setbacks were due to delays related to fire restrictions and to get the roads completed. There was no public comment. **On the basis of the explanation provided in the letter of June 11, 2002, from the engineer requesting a one-year extension, Commissioner Vincent moved to grant the request of the preliminary plat approval for the Gallatin Peaks Cluster "A" Major Subdivision. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the continuation of a public hearing and consideration of a request from Fullerton Architects on behalf of Michael, Daniel, and Terrence Theisen for preliminary plat approval of the Antelope Ridge Major Subdivision, located in the NE ¼ and SE ¼ of Section 36, T2N, R4E, PMM, Gallatin County, Montana. The proposal is for a 50-lot major subdivision on approximately 287 acres west of Theisen Road and north of Kirwan Lane, approximately seven miles north of the City of Belgrade. Average lot size is approximately 1.5 acres and the applicant proposes use of individual water and sewer systems. The 287 acres are distributed as follows: Lots 79 acres; Park 10.5 acres; Open Space 182 acres; and Road Dedication 15.6 acres. Applicant is not requesting any variances from the Gallatin County Subdivision Regulations. Legal notice was published in the High Country Independent Press on May 16 and 23, 2002, for hearing dates before the Planning Board on June 11, 2002, and before the Commission hearing on June 25, 2002, which was continued until today. There was no additional requirement for notice. The Gallatin County Planning Board held a public hearing on June 11, 2002, voting 6:1 recommending approval of the project. The majority of the Planning Board agreed that the project complies with the Gallatin County Plan and the Subdivision Regulations. There were no specific recommendations. Prior to the hearing, they held a pre-app and at that time some specific recommendations were passed on to the applicant concerning wildlife and

wildlife corridors. The applicant made some adjustments that were satisfactory to the Board. Bryan Connelley, Assistant Fire Chief of the Belgrade Rural Fire Department submitted a list of specific conditions, of which Ms. Madgic assumed the applicant was in agreement. Gallatin County Sheriff Jim Cashell calculated a financial mitigation of \$48,468.75 to cover costs associated with provision of law enforcement. In order to continue uniformity, Ms. Madgic noted that she added sheriff mitigation language as condition #28, which was drafted as a condition for a prior major subdivision. Ms. Madgic briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions and those specific to the proposal. She outlined the applicable goals and policies of the Gallatin County Plan for the Commission to consider for compliance. The Gallatin County Commission has one determination to make with this application: A determination as to whether to approve the proposed subdivision. The basis for the Commission's decision shall be whether the preliminary plat, and additional information demonstrate that the subdivision meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations and Gallatin County Plan. If the Commission decides to approve the subdivision, the following conditions for final plat approval are suggested:

1. The final plat(s) shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates.
2. Department of Environmental Quality approval shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall obtain the Gallatin County Health Officer's approval.
3. One copy of the restrictive and protective covenants encumbering the real property contained within the subdivision shall be submitted to the Gallatin County Planning Department for joint review by the Planning Department and County Attorney's Office. The final plat application shall include written approval of the covenants by the County Attorney's Office.
4. One copy of the following documents shall be submitted to the Gallatin County Attorney's Office. The final plat application shall include written approval of these documents by the Gallatin County Attorney's Office.
 - 1) Articles of organization or incorporation for the property owners' association approved by the Secretary of State of the State of Montana.
 - 2) Bylaws controlling the operation of the property owners' association.
 - 3) Certificate of a licensed title abstractor.
5. Applicant shall record on the final plat(s) a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district.
6. All utility easements shall be shown on the final plat(s). Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat(s): *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.*
7. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval(s).
8. Applicant shall record the following covenants on or with the final plat(s):
 - a) *The property owner shall be responsible for the control of County-declared noxious weeds.*
 - b) *Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.*
 - c) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.*
 - d) *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.*
 - e) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.*
 - f) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.*
 - g) *The artificial feeding of all big game wildlife shall be prohibited.*
 - h) *All garbage shall be stored in animal-proof containers or be made unavailable to animals.*
 - i) *Owners acknowledge that wildlife damage to landscaping and other property may occur. Owners shall accept that risk and shall not file claims against the Owners' Association or any other governing body for such damages.*
 - j) *Introduction of non-native plant species which might compete with, harm native species, or result in their decline is prohibited except where it is shown that such introduction can improve or prevent undue damage to the natural environment. The planting or ornamental (non-native) woody or shrubby vegetation, especially attractive to wildlife, for landscape purposes is discouraged in order to reduce the likelihood of human-wildlife encounters on*

home sites. k) All areas disturbed by construction shall be re-seeded with vegetation types approved by the Gallatin County Weed Control Officer. l) The use of chemical herbicides and pesticides is prohibited except for the control of noxious weeds as required by law. Non-chemical weed control is strongly encouraged. m)

Residents and guests on the property shall not harass wildlife and should avoid areas of wildlife concentration. Loud, offensive, or other behavior which harasses or frightens wildlife in common areas is prohibited. Indiscriminate use and disturbance of wildlife refuse is discouraged. n) The taking of any and all wildlife species by any means within the property is prohibited except for the catching and keeping of fish which have been stocked in private ponds and the control of individual animals known to be caused unacceptable damage to property. No hunting or shooting of firearms shall be allowed on any lot. o) No more than two generally recognized house or yard pets are permitted, provided, however, that such animals shall at all times be restrained or leashed and provided further that subject to the provisions of subparagraphs above, and subject to such limitations as may from time to time be set forth in the Bylaws of the Association, which may reduce the allowable number, restrict the type of pet, or require that such pets be confined indoors. p) Kennels shall be placed in an area which is inconspicuous and removed from the direct view of neighbors and the primary road. All kennels shall obtain the CDR's approval for size, materials and location. A dog run shall be permitted provided that the size, construction and location shall have been approved by the CDR. q) Each building lot in Antelope Ridge shall have a building envelope surveyed and located on the site. The typical building envelope is defined by a center stake and a 100-foot diameter. All dwellings, exterior parking spaces, garages, carports, porches, decks, tennis courts and similar amenities, shall be contained within the building envelope. r) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission. 9. All road names for interior roads must be approved by the County GIS Office. 10.

A detailed signage and drainage plan will need to be submitted to the County Road Department for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County-maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 11. Applicant shall arrange a pre-construction meeting with the County Road Department prior to the start of any construction. 12. Encroachment permits must be obtained from the County GIS Office for any access points coming off of county maintained roads. Additionally, all internal lots will be limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road. 13. A "no-access" strip is required along all lot boundaries that border County-maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County Road Department. 14. All interior roads must be built to County paved standards, and have a 60-foot right-of-way, dedicated to the public, unless other County road standards apply. **15. Applicant shall pave Theisen Road from the end of existing asphalt to the north property line.** All paving and/or roadway improvements shall also address property drainage standards. 16.

Antelope Ridge Road shall access Theisen Road at the northeast corner of Section 36 (north end of property).

17. Final plat shall contain a statement regarding future connection to Kirwin Lane in the event COS tracts to the south are developed, with provisions for joint maintenance. 18. A detailed traffic study shall be prepared to identify off-site traffic impacts the development will have on the following existing County Road: Theisen Road. The study will be used to identify primary and secondary access roads, as well as collectors and arterials in the area of impact. Findings from this study may result in the need to have additional right-of-way along certain County-maintained roads dedicated to the public. 19. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), inspected and certified by an engineer. Such inspection and certification must be provided to the County Road Department in writing. Final approval will not be given until this documentation is received. 20. With respect to paving County maintained roads, a two-year written warranty, from the contractor, will be required. This warranty must be submitted to the County Road Department prior to final approval. Striping shall be included after paving of any County-maintained roadway. 21. A "property owners' association" must be formed for the maintenance of all interior roads. A copy of the property owners' association by-laws is required to be submitted to the County Road Department prior to final approval. 22. Thirty feet of Theisen Road west of the centerline will need to be dedicated to the public for the entire length of the development. 23. A waiver of protest for creation of future RIDs will be required. 24. Road impact fees are required to be paid to Gallatin County, per Gallatin County Impact Fee standards. 25. All areas of public right-of-way disturbed during construction shall be planted with new sod or reseeded. 26. Applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. 27. Applicant shall provide an appropriate fire protection method in accordance with the Subdivision Regulations and as specified in a 5/20/02 memo from the Belgrade Rural Fire District. Applicant shall have the Belgrade Rural

Fire District review and approve the fire protection method and all fire protection requirements prior to final plat approval. Applicant shall submit written verification from the fire district that the requirement has been met. 28. Applicant shall prepare and implement an onsite 24-hour/seven-day-a-week security mitigation plan to be reviewed by the appropriate law enforcement agencies and approved by the Gallatin County Commission. 29. All open space parcels shall be dedicated to the property owners' association prior to final plat approval. 30. The final plat(s) shall contain a statement requiring lot accesses be built to Gallatin County Subdivision Regulation standards. 31. Applicant shall consult with the US Postal Service regarding mail delivery. If a centralized mail system is used, the location must be shown on the appropriate final plat. 32. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval(s). Further discussion took place regarding the size of adjacent parcels. Matt Faure on behalf of Fullerton Architects outlined the design process, how they arrived at their specific density, and wildlife and wildlife corridors. He spoke regarding the roads and topography noting that they were protecting the ridgeline and keeping riparian areas and natural features in place and undisturbed. He believed this fit well with what the county likes to see from the prospective of cluster development and the State of Montana, with regard to the use of on site waste and well systems. He stated that the open space and dedicated parkland opens the subdivision up for wildlife and brings their density to about one unit for 5.7 acres which is similar to other development in the area, pointing out that the difference is that theirs is clustered. While pointing out the high water table and low density in between this proposed subdivision and Belgrade, Mr. Faure spoke in regards to leap frog. He did not believe it was leap frog because they are not in a sensitive area and there is not going to be a lot of development in between Belgrade and this property because of the wetland river area. In addressing view shed and ridgeline protection, Mr. Faure noted that it was difficult however; they limited the height of homes to 26-feet and also defined designated residential areas, where all the homes will be located and strategically placed so they do not obstruct views. Ecologist Eric Atkinson addressed specifics of the plan relative to wildlife aspects. From research, Mr. Atkinson noted that wildlife use wider and shorter corridors. Therefore, they consolidated the narrower wildlife corridors into wider and shorter corridors although there was some concerns if antelope will use these. Ms. Madgic received letters from the following: (2) Four Dot Ranch, dated June 5 and 13, 2002, expressing concerns with impacts to wildlife, soil constraints, overall density, compatibility issues with adjacent properties, ridgeline development, proximity with entrance roads, and fire hazards; and Tom and Karen Kirwan in support. Public comment: Eva Muller (opposition); Pete Worts; Doug Daniels, representing the Theisen's; Jason Camp (support); and Fred Sowerwine. Mr. Daniels spoke regarding the soils, noting that there were only slight restrictions as far as use for the septic tank drain field purposes. They conducted ground water studies by drilling wells of which, they had good success in obtaining water in the amount of 25 to 50 gallons per minute. He briefly addressed compatibility with adjacent properties and traffic. He believed that the developer would have no problem implementing a 35 mph speed limit on the roads, which was suggested during public comment. Terry Theisen addressed weed issues, noting that they believe they have the problem contained. Concerns raised by the public were: protecting surface and groundwater quality; density; fire ponds in soils unfavorable for pond reservoirs; water quantity; view shed; leap frog; burden of sheriff mitigation being placed on taxpayers; pre-existing condition of roads; traffic safety issues on Theisen Road; trash; and weeds. Ms. Madgic noted that the Planning Board voted to pass on the following findings: 1. Not to support inclusion of the sheriff mitigation plan; 2. Suggested conducting a ground water study to address public concern over water quantity and quality. George Durkin, on behalf of the Gallatin County Road and Bridge Department briefly addressed paving concerns of Theisen Road and speed. Commissioner Murdock requested that Mr. Durkin work with Ms. Madgic in drafting a condition that would include improvements to access roads that are reasonably related to the impacts of this subdivision. Commissioner Vincent raised the question of whether or not the letter from the Sheriff indicating that he could not guarantee adequate law enforcement would be part of a disclosure statement. Ms. Madgic noted that the same letter is in several subdivision files. In discussion, Commissioner Vincent questioned if there was enough uncertainty in this area relative to the density and whether they knew enough about the availability and quality of water to proceed. He also noted issues relative to leapfrog, and the assumption that the area between Belgrade and this development is unsuitable for development and probably won't be developed because of the high water table. Another concern of Commissioner Vincent's was in regard to view shed, building height and density. Commissioner Mitchell pointed out that it actually follows a lot of the guidelines of what they like to see as far as clustering. She noted after viewing the site that there were already several home sites in the area however, she was a little concerned about size of the lots compared to the existing lots but stated that is what they were looking for in Gallatin County. She added that a lot of her questions were answered and in regards to water she believed there was adequate water at this time. She expressed concerns about traffic routes and preexisting problems, noting that some of the situations that are marginal now will become a problem later. However, she did not know how much of that relates to this proposal. She believed some problems could be worked out in conjunction with future acceleration of the problems regarding traffic. Commissioner Murdock concurred, adding that adjacent parcels such as Dry Creek Estates and Hanna Tracts are un-reviewed subdivisions, both of which are a very poor use of development therefore, roads are not built to standard. Although he commented that it was not an ideal location and that there will be a view shed concern, he believed this would be a better use of the property

because of their preservation of open space and intent to keep wildlife corridors was a good faith attempt. With a few changes to the conditions he was in favor of this development. In discussion regarding Sheriff mitigation, Commissioners Mitchell and Murdock were in agreement to leaving condition #28, as written. Ms. Madgic changed condition #15 to read as follows: "Applicant shall pave Theisen Road from the end of existing asphalt to the north property line and shall make necessary road improvements to bring this primary access road into conformance with County Standards as approved by the County Road Department. All paving and/or roadway improvements shall also address property drainage standards." Mr. Faure questioned if this would be all the way back to Dry Creek. Further discussed took place regarding the condition and what would be reasonable. Mr. Durkin could not answer any questions without looking into the history of the road. Commissioner Murdock encouraged the Road Department to work in good faith with the Theisen's on reasonable road improvements. They were all in agreement. **Commissioner Mitchell moved to approve preliminary plat for the Antelope Major Subdivision, with the conditions as modified, finding that it meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations, and the Gallatin County Plan. Seconded by Commissioner Vincent,** adding that he would support the motion although, he believed it had the potential at least on the high ridge side to impact the view shed. He asked everyone involved with the development to try to do what they could on a voluntary basis to mitigate the visual impact in regards to lighting and the positioning of homes on the lots. He was concerned with protecting the view sheds, and until they had something in the Regulations more specifically, he hoped on voluntary basis that people could do positive things. Commissioner Murdock commented on Ms. Muller's concerns, noting he shared her concerns however, when they have conflicting engineering reports such as they did with the soil testing, he relies on DEQ, as that is their job and they have to sign off on it. He stated that he was relying on Mr. Connelley in regards to the lining of the ponds, and that the fire concerns are being mitigated. Mr. Faure confirmed for Commissioner Mitchell that the homeowners association by covenants would be responsible for the open space, weed control and all other issues. He stated for the developer that they agreed to stipulate to the conditions that were addressed and noted. **None voting nay. Motion carried.**

Gallatin County Planner W. Randall Johnson requested a continuance on the public hearing of request for final plat approval and consideration of a request for improvements agreement for the Saddle Peak Estates Major Subdivision in order to review the new final plat. A continuance was agreed to by all until July 30, 2002. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 12:09 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 30th DAY OF JULY 2002

The meeting was called to order by Chairman Bill Murdock at 9:12 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

JULY 22-23, 2002

- The Commissioners conducted regular County business.

JULY 24, 2002

- The Commissioners attended a special meeting for the purpose of approving a resolution confirming the entering into, execution and delivery of a commitment agreement with the Department of Natural Resources and Conservation regarding the sale and delivery of the County's \$4,136,000 solid waste system revenue bond (DNRC revolving loan program), Series 2002. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, and Commission Assistant Glenda Howze. This resolution was approved on June 27, but no minutes were taken to confirm such action. Commissioner Vincent made a motion to approve Resolution #2002-081, a resolution confirming the entering into, execution and delivery of a commitment agreement with the

Department of Natural Resources and Conservation regarding the sale and delivery of the County's \$4,136,000 solid waste system revenue bond (DNRC revolving loan program), Series 2002; confirming the action taken on June 27, 2002, pending approval from Chief Deputy County Attorney Chris Gray – noting that this action is retroactive to the decision on June 27. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JULY 25-26, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated July 25, 2002, in the amount of \$343,616.69.
2. Consideration of Contract(s): Morrison-Maierle, Inc., Engineering Services, 2002 Fog Seal Program – RID 332 Rea & 362 Arrowleaf; Taylor, Hanson & Kane Architects, P.C. – Martel Feasibility Study; Engagement Letter for Arbitrage Compliance Specialist Inc. – Open Space Bonds Series 2001; City of Three Forks Library Service Agreement; and MSU Extension Service Budget Agreement for FY 2003.
3. Request for Agricultural Boundary Relocation Exemption for Bert L. and Harriet Kamps and John and Jeannette Olson, located in the SW ¼ of Section 34, T2N, R3E of P.M.M., Gallatin County, Montana. (Approximately 1½ miles north of the Town of Manhattan on Nixon Gulch Road). Manhattan Planning Consultant Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Mortgage Survey Exemption for Larry and Douwina Van Dyke, located in the E ½ E ½ of the NW ¼ of Section 11, T1N, R3E, P.M.M., Gallatin County, Montana. (6490 Dry Creek Road, Manhattan, Montana). Manhattan Planning Consultant Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Boundary Relocation Exemption for Jim and Justine Heisel and David and Lorri Brenneman, located in the SE ¼ of Section 32, T2N, R3E, and the NE ¼ and SE ¼ of Section 5, T1N, R3E, P.M.M., Gallatin County, Montana. (8460 Frontage Road, Manhattan, Montana). Manhattan Planning Consultant Ralph Johnson reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock announced that regular agenda Item #7, public hearing and consideration of a resolution awarding the sale of bonds for Looking Glass RID #380, and #8, consideration of award of construction bids for Looking Glass RID #380, will be reversed. Regular agenda Item #9, consideration of protests for a resolution creating Lake RID #384, was on the agenda in error, and regular agenda Item #13, public hearing and consideration of a resolution increasing and amending the FY 2002 budget was continued, until August 6, 2002. Commissioner Mitchell read the consent agenda. Gallatin County Fiscal Officer Ed Blackman recommended continuing the contracts for the City of Three Forks Library Service Agreement and the MSU Extension Service Budget Agreement for FY 2003 until the budget is adopted. **Commissioner Mitchell moved to approve the consent agenda, as revised. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Eleven vacancies exist on the Historic Preservation Board due to the term expiration of Bonnie Sachatello-Sawyer and Giles Cokelet, and the resignation of John Brown, Christopher Harris, Charles Soha, William Muhlenfeld, Naomi Pace Johnson, Jane Quinn, Maire O'Neill, Harriet DeWitte, and Cara Wilder. Each term is for two-years however, with the restructuring of this board there will be a need to stagger terms initially with 5 one-year terms and 6 two-year terms. At the first meeting of the board, they will be asked to draw lots to determine the terms and notify the Commission office of the outcome. Seventeen applications were received from Mary Swier-Bolhuis (Manhattan), Megen Higgins (Three Forks), Joyce Seeman (Manhattan), Renee Koenig (Belgrade), Scott Harvey (Gallatin Gateway), Anita DeClue (Three Forks), Paul Shea (West Yellowstone), Jeanne Mae (Bozeman), Bruce Madson (West Yellowstone), John DeHaas (Bozeman-City), Rich Noonan (Bozeman-City), Bruce Selyem (Bozeman-Non-City), Maire O'Neill (Bozeman-Non-City), Pierce Mullen (Bozeman-City), and Patricia Bean (Bozeman). Giles Cokelet (Bozeman-Non-City) and Bonnie Sachatello-Sawyer (Bozeman-Non-City) also submitted requests to be considered for reappointment to the board. There was no public comment. Commissioner Mitchell expressed the importance of having countywide representation on the board. She believed the board needed to be given objectives to succeed, when appointed, which would assure countywide representation. She also suggested revising the resolution to more accurately reflect a Historic Preservation program that the county can handle. She preferred appointing all those outside of the City of Bozeman as a first priority and to give them a mission to revise the goals and objectives.

They could then bring back a draft resolution to guarantee representation, realistic goals and expectations of the board. Commissioners Vincent and Murdock concurred. **Commissioner Mitchell moved to nominate Mary Swier-Bolhuis (Manhattan), Megan Higgins (Three Forks), Joyce Seeman (Manhattan), Renee Koenig (Belgrade), Scott Harvey (Gallatin Gateway), Anita DeClue (Three Forks), Paul Shea (West Yellowstone) Jeanne Moe (Bozeman), and Bruce Madson (West Yellowstone). Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Vincent nominated John DeHaas. Seconded by Commissioner Murdock. Commissioner Mitchell did not support the motion, as she preferred having some former members on the board for continuity. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried. Commissioner Vincent nominated Bonnie Sachatello-Sawyer. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell motioned to request that the Commission give this board a mission to draft a revised resolution that would accurately reflect a realistic Historic Preservation program that Gallatin County could perform and include guaranteed countywide representation. Seconded by Commissioner Vincent. Further discussion took place with regards to this issue not being adequately advertised. Since it appeared to be a subject of significant public interest, Gallatin County Attorney Marty Lambert recommended that it be posted. **No action taken.** Five vacancies exist on the Planning Board due to the resignations of Paulette Neshiem and W. Geoffrey Health, and the term expirations of Howard VanNoy, Harry Armstrong, and Eugene Krebsbach. Mr. VanNoy, Mr. Armstrong, and Mr. Krebsbach were notified, and Mr. Van Noy indicated that he was no longer interested in serving. One additional application was received from Mary Sadowski, and Mr. Armstrong and Mr. Krebsbach indicated that they wished to be reappointed to the Board. There was no public comment. **Commissioner Mitchell moved to appoint Mary Sadowski. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Vincent nominated Mr. Armstrong for reappointment. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved to reappoint Mr. Krebsbach. Seconded by Commissioner Vincent. None voting nay. Motion carried.****

Commissioner Murdock reported on the appointment of the interim Superintendent of Schools. Gallatin County Attorney Marty Lambert spoke with regard to the process and procedure for this appointment. The Superintendent of Schools resigned, and the appointee would serve until the swearing in on December 31, 2002, of the newly elected Superintendent of Schools. Commissioner Murdock announced that the position was advertised and one application was received. Public comment: Elmer Baldrige pointed out that he also submitted an application packet to Job Service the day after the position was advertised. Mr. Baldrige outlined his qualifications for the Commission. The Commission agreed to postpone the appointment until an office meeting, in order to allow them time to review Mr. Baldrige's application, and any others that may not have gotten to them for review. **No action taken.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on continuation of a public hearing and consideration of a request for an Improvements Agreement for the Saddle Peaks Ranch Major Subdivision. Preliminary plat approval was granted on December 11, 2001. The major subdivision includes 41 residential lots and approximately 262 acres of common open space. The applicant submitted application for final plat approval and requested that the required conditions for the installation of required infrastructure improvements (roads, striping, stop signs and road name signs, fire ponds), be completed under an Improvements Agreement. Gallatin County Attorney Marty Lambert confirmed that he approved and reviewed the Improvements Agreement. **Finding that the County Attorney reviewed the Improvements Agreement and Staff reviewed it for completeness, Commissioner Mitchell moved to approve the Improvements Agreement for Saddle Peaks Ranch Major Subdivision. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of a public hearing and consideration of a request for final plat approval of the Saddle Peaks Ranch Major Subdivision. Preliminary plat approval was granted on December 11, 2001. The 521.46-acre property is located in Section 1, R1S, R5E. P.M.M., Gallatin County, Montana. The property is located southwest of the intersection of East Baseline and Walker Roads. Mr. Johnson noted that the documents transferring the development rights that are to be recorded with the Clerk and Recorder at the time of recordation of the final plat had not been provided to the Gallatin County Planning Department. It was also noted that Chief Deputy Clerk and Recorder Eric Semerad reviewed

the new final plat that was prepared last week. He outlined the conditions that would be completed under the Improvements Agreement. He stated that the two interior subdivision roads, which extend to the adjacent lands to the west and south, are with 60-foot easements, and not 60-foot dedicated right-of-ways. Public comment: Mary Promisco questioned what assurances there were that the conditions of approval would be completed. She also expressed concern with the subdivision notice process, weed control, building envelopes, and that the dedicated easement was done accurately and legally. Further discussion took place regarding the building envelopes and clarifying weed control. Since the easement to Ms. Primosco's property is considered open space, she questioned if there would be a problem if it were to be paved. Mr. Johnson replied that the Middle Cottonwood Zoning Regulations do not prohibit roads from crossing open space and that the easement was preexisting. With the approval of the Improvements Agreement, Mr. Johnson advised that the conditions have been met. Bill Muhlenfeld, owner and developer of the subdivision spoke briefly regarding the project and the benefits that come with the use of density unit transfers. **Noting concerns expressed in testimony as part of the public record, Commissioner Vincent found that the conditions for final plat approval have been met, pending adoption of the Improvements Agreement, adding that the subdivision is in compliance with State Statute, Gallatin County Subdivision Regulations, and the Gallatin County Master Plan. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

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Gallatin County Planning Director Jennifer Madgic reported on continuation of a public hearing and request for consideration of a resolution adopting Subdivision, Floodplain and Zoning Fees. It has been over 5 years since these fees have been increased and this was an attempt to make an adjustment the Planning Department believed was equitable and fair, and to help with cost recovery so the taxpayers are not supplementing the reviews. Ms. Madgic went through the changes made to the fee schedule labeled Exhibit "A", noting distinction between minor and major projects. She recommended that they disregard "smart growth" fees at this time that were referred to on page 1 of the staff report which included the incentive provision for "smart growth" by offering reduced fees. The reason being is that "smart growth" is not incorporated into the current County Plan and would need to be incorporated into the Growth Policy before adopting it as a strategy in providing incentives. It was noted that the County Attorney's office had not reviewed the fee changes. Further discussion took place regarding some of the individual increases. Ms. Madgic noted a letter from the Belgrade Rural Fire District, Exhibit "B", requesting that the Planning Department add fees to their schedule to cover the costs incurred by the fire districts to provide fire protection review for subdivisions. She hesitated putting outside agency fees into their fee schedule and spoke with Assistant Fire Chief Bryan Connelley regarding the request. She was unsure of the best way to work this out however; she suggested they charge their own fees like other departments, for example the weed and road department. Gallatin County Fiscal Officer Ed Blackman stated that one third of the revenues generated for the Planning Department are generated by the fees on the current structure. Mr. Connelley stated their suggestion was to try and keep some management on a countywide basis, and because the Planning Department is the focal point for subdivisions they believed this was a good choice. He reiterated that currently they have no way to recoup their costs for subdivision review. Commissioner Mitchell questioned if the law allowed them to charge fees for review, like it does for the other departments. Mr. Connelley was unaware if the law allowed them to charge fees for fire service areas however, he believed they could for fire districts. Commissioner Mitchell encouraged him to pursue a legislative change, if the law did not allow them to charge fees. Further discussion took place regarding impact fees, and it was noted that impact fees are very specific in what they can be used for and cannot be used for labor. The question was raised to Gallatin County Attorney Marty Lambert if he seen the need to personally review the fee schedule. Mr. Lambert stated that these matters are of policy for Commission to set, and noted that pertinent State Statute does not address fee amounts. With regard to the request by the Belgrade Rural Fire District, he added that there is very little law governing the operation of fire districts and fire service areas. Mr. Lambert agreed to review the fire district's request to see if it could be a possibility. **Commissioner Mitchell moved to approve the revised fee schedule provided by the Planning Department, without the "smart growth" fees as recommended, this being Resolution #2002-082. Seconded by Commissioner Vincent, supporting the motion enthusiastically, given the percentages that the taxpayers of Gallatin County are subsidizing the developers. He believed this was a positive move with flexibility with regard to recognition of the large-scale corporate developer and one with fewer assets. He added that they should take a closer look at these fees on a more regular basis. Commissioner Mitchell noted that these fees could be adjusted, and reiterated that it was unfair for the taxpayers to subsidize development in this county to this extent. None voting nay. Motion carried.** Commissioner Murdock noted the fire district fees were not included. The Commission urged the fire district to meet with the County Attorney and try to work out a solution.

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Gallatin County Planning Director Jennifer Madgic reported on consideration of adoption of an Interim Zoning District and Interim Zoning Regulation in the Bozeman Pass Area for the purpose of regulating coal bed methane production and development. Notice was published in accordance with state law and the 30-day protest period ended July 25, 2002. No protests were received. Ms. Madgic stated that the fee to be charged for a Condition Use Permit was to be determined at a later date. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-083. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** Gallatin County Attorney Marty Lambert clarified that this resolution imposes the full one-year period on Interim Zoning, and will be in effect until July 30, 2003, and can be extended for an additional year.

Phil Forbes on behalf of Morrison-Maierle reported on consideration of award of construction bids for Looking Glass RID #380. Both the construction of RID #380 and the maintenance work scheduled for this year in the RID maintenance program was combined in an effort to receive more competitive bids. It was believed that their effort to combine them was successful in that the low bid was approximately 13 percent below the engineer's estimates. On behalf of Morrison-Maierle, Mr. Forbes recommended awarding the project to Gallatin Asphalt, Inc., the low bidder in the amount of \$117,028. There was no public comment. **Commissioner Mitchell moved to approve awarding the bid for RID #380 and the road maintenance program 2002, to the recommended firm of Gallatin Asphalt, Inc., as spelled out and reviewed by Morrison-Maierle in the amount of \$117,028. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution awarding the sale of bonds for Looking Glass RID #380. Based on Mr. Blackman's review of information from the bond buyer Montana Municipal Cooperative, he recommended approval of the sale of \$110,000 in construction bonds for RID #380 Looking Glass, noting adequate funds for the other contracts. There was no public comment. **Commissioner Vincent moved to approve Resolution #RID-02-380D. Seconded by Commissioner Mitchell. Commissioner Murdock added per Mr. Blackman's memo that the construction bid, engineer contract, bond costs and county administrative costs will not exceed the total of the bond; the buyer delivers the balance of the bond proceeds as specified in the bond documents; and that the bond counsel and county contracted RID attorney finalize the bond form and other necessary documents prior to closing. None voting nay. Motion carried.**

Commissioner Vincent reported on the public hearing and consideration of the first reading of a speed reduction ordinance for Bear Canyon Road. Commissioner Vincent read the ordinance. There was no public comment. A memo dated June 18, 2002, from Gallatin County Road and Bridge Superintendent Lee Provance was noted and read into the record. Mr. Provance stated that there was a speed study conducted on Bear Canyon Road the week of June 10, 2002. The completed study showed that the mean and eighty-five percentile speeds were both 35.5 mph. His recommendation was to set the speed on this road at 35 mph. **Commissioner Mitchell moved to approve the first reading of Ordinance #2002-07. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Commissioner Mitchell reported on the public hearing and consideration of the first reading of a speed reduction ordinance for Cottonwood Road/Cottonwood School. Commissioner Mitchell read the ordinance. Public comment: Ann Marie Moran representing the school explained the reason for the speed reduction was due to excessive traffic and speed in front of the school. She proposed a buffer zone of 25 mph on each side of the 15 mph in front of the school to allow vehicles time to slow down. A memo dated May 29, 2002, from Gallatin County Road and Bridge Superintendent Lee Provance was noted and read into the record. For the following reasons, Mr. Provance believed that a 25 mph speed limit was sufficient: any sight distance from the school's approach that is obscured, should be cleared by the school (the Road Department would be willing to assist); most of the traffic on Cottonwood Road during the school year is local traffic that is familiar with the road and the driving conditions; the school may apply magnesium chloride in front of the school to keep dust down and decrease wash boarding; the Road Department could also assist by re-graveling that portion of road with better material; and it was his understanding that only six children will be attending this school (far too few to impose an unreasonably low speed limit) and he speculated that most of them would be driven there. Further discussion took place in regards to the process of making a change to an ordinance. Gallatin County

Attorney Marty Lambert noted that it would need to be noticed for another week for discussion with the Road Department in regards to the physical distances and the configuration of the speeds. Commissioner Mitchell suggested posting a "School Zone Ahead" sign prior to the speed zone, which would give some indication for the need to slow down. Commissioner Vincent suggested thinking it over however, he did not want to rule out a phased in speed limit at this point. He did not agree that the majority of traffic going by the school was local. He believed a lot of the traffic was commuter traffic and that it was becoming more of an arterial road. Commissioner Murdock agreed, and wanted to speak with Mr. Provance with regards to his breakdown on local versus non-local traffic on this road. He noted several other schools with a step down speed limit. Commissioner Mitchell felt the traffic issue was irrelevant and the situation itself was a problem, and her concern was visibility. **No action taken.**

Commissioner Murdock reported on the public hearing and consideration of the second reading of a speed reduction ordinance for East Baseline Road, calling for a speed limit of 35 mph from the intersection of Springhill Road, to 200 feet east of the intersection of Hamm Road, and 45 mph from 200 feet east of the intersection of Hamm Road to the intersection of Bostwick Road. There was no public comment. **Commissioner Mitchell moved to approve the second reading of Ordinance #2002-06. Seconded by Commissioner Vincent. None voting nay. Motion carried.** The ordinance will take effect 30 days from today.

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution setting the salary of elected officials. Mr. Blackman outlined the elected officials individual salary increases. Further discussion took place with regards to the process, adjustments and longevity. There was no public comment. Commissioner Murdock had no problem with the increases as proposed by the salary committee and the budget. He believed it was more than warranted, noting the Commissioners are only getting a 3.84 percent increase, not 4 percent. Commissioner Vincent stated that he would be inclined to vote against the increase, were it not for the inclusion of the County Attorney that did not receive an increase last year, and the Sheriff's deputies who he always believes because of the unique nature of their duties virtually can not be over paid. However, with those inclusions he was willing to support the resolution setting the salaries. **Commissioner Vincent moved to adopt Resolution #2002-084. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing for the preliminary Gallatin County FY 2003 operating budget as determined by the County Commission. This hearing was called for in the resolution adopting the preliminary Gallatin County FY 2003 operating budget. Mr. Blackman noted several phone calls and meetings with fire service areas, fire districts and special districts regarding the preliminary budget. The last certification from the Department of Revenue in the amount of approximately \$133 million dollars in taxable valuation was scheduled to be certified August 8, 2002. The amount was up from the \$127 million dollars that the Commission was currently basing the budget on. Over 80 percent of the increase is due to new construction, which will be discussed during the preliminary budget to final budget discussions planned for August 6 and 9, 2002. The final budget is tentatively scheduled for August 9th, and at that time discussion will take place regarding the finalization of any floating millages or changes to the CIP or other budgets. Mr. Blackman submitted and briefly summarized Exhibit "A", a Comparison FY 02 Budget to FY 03 Proposed Budget. The budget is approximately a 2.17 percent increase. There was no public comment. Discussion took place with regards to putting off adoption of the final budget until after the special session. Public comment was left open. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:37 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

178 GALLATIN COUNTY COMMISSIONERS' JOURNAL NO. 47

The meeting was called to order by Chairman Bill Murdock at 9:08 A.M., at the Belgrade City Council Chambers in Belgrade. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

JULY 29, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Auditor Joyce Schmidt, Road and Bridge Superintendent Lee Provance, Planning Director Jennifer Madgic, and guests Albie Wells, Lee Copenhagen, Darryl Berhent, Sam Hoffman, and Nick Gevock, Bozeman Daily Chronicle. The Commissioners discussed printing costs for the Code of the West document. Commissioner Vincent made a motion to approve up to \$7,500 for the printing of said document, upon final draft review and approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered preliminary adoption of the draft Credit Card Policy. Commissioner Vincent made a motion to adopt the draft form of the Credit Card Policy. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request from the Treasurer for authorization for records disposal and/or destruction. Commissioner Vincent made a motion to authorize Chairman Murdock to sign and approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval budget transfer requests from the Historic Preservation Board and the Road/Shop Department. Commissioner Vincent made a motion to approve said requests. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered appointment of Bill Martel to the Detention Center Project Team to replace Roger Curtiss. Commissioner Mitchell made a motion to appoint Bill Martel to replace Roger Curtiss on the Detention Center Project Team. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Commissioner Mitchell made a motion to approve up to \$3,000 for Mona Jamison for lobbying services for the 2002 Special Session. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

JULY 30, 2002

- The Commissioners conducted regular County business.

JULY 31, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, and Vincent, Grants Administrator Larry Watson, Youth Probation Officer Vicky Nelson, and guest Esther Berg. Commissioner Mitchell, County Attorney Marty Lambert, Planning Director Jennifer Madgic, and Attorney Dick Dolan joined the meeting for the discussion regarding coal bed methane. The Commissioners considered approval of FY 2003 JAIB allocations. Ms. Nelson wrote a grant for a portion of the funds, in order to send a probation officer to training. She explained that three other officers went to this training last year. The county must provide a 10% match, or \$426.80. Commissioner Vincent made a motion to approve the FY 2003 JAIB allocation grant request. Commissioner Murdock seconded the motion. In discussion, it was noted that this approval is pending Finance Officer Ed Blackman finding the appropriate funds to pull the match from. All voted aye. Motion carried with a vote of two to zero. The Commissioners also discussed approval of an FY 2003 JAIB allocation for West Yellowstone. The requested funds would be from the left over allocation not used by Belgrade, Manhattan and Three Forks. The Southwest Regional Juvenile Detention Board has agreed that this is the best use of the funds. Commissioner Vincent made a motion to authorize the use of the JAIB funds for the West Yellowstone juvenile accountability program, as proposed by the Southwest Regional Juvenile Detention Board. The match for these funds will come from West Yellowstone's program budget. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed the air conditioning situation at the Detention Center. Commissioner Mitchell stated that she wants a new proposal for the air-conditioning at the detention

center. There is not a general contractor on the project, and they need to go back to the pre-qualified list or use the current contractor. Commissioner Murdock made a motion to have Braneck continue the work on the air conditioning project for the Detention Center. Commissioner Vincent seconded the motion. Commissioners Murdock and Vincent voted in favor of the motion, Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

The Commissioners discussed the Coal Bed Methane issue with Mr. Lambert, Mr. Dolan, and Ms. Madgic. Huber has submitted an application that will be heard in Billings on August 8th. It appears to be an end-around for drilling for coal bed methane. They filed three applications, withdrew one, noticed one for the improper section, and the third has been properly noticed. The Greater Yellowstone Coalition and Bridger Canyon Property Owners want to be prepared to file an injunction on the improperly notice application, and ask that the judge consider the other a violation of the moratorium. They believe that the judge will be sympathetic to their message. The moratorium will give people one year, possibly two to get a grasp on things and determine the impacts. The impacts on the type of drilling mentioned in the application are all the same as for coal bed methane drilling. The group asked the Commissioners to consider amending the moratorium to include the word "gas." A 201-Zoning district can't do away with this type of activity completely, only a moratorium can. They noted that it is a necessity for the county to have a presence at the hearing. The County Attorney recommended that the county join as plaintiffs or at least legally commit to being plaintiffs. The presentation could be split up between experts, economists, and real estate professionals. The cost would probably be \$1000-\$2000 a day plus expenses for each expert testifier. It was noted that it needs to be on record at the hearing that the Montana Oil and Gas Board that they can't grant approval to an issue that has not been studied, as they do not know the effects until the study is completed. A bond is not usually required for this type of application. Mr. Dolan stated that they would be willing to pay for at least two of the expert witnesses. Commissioner Mitchell stated that the County has a lot of important things to do, and if the public wants the work done they need to pony up and pay for the additional costs. Commissioner Murdock stated that the county needs the injunction and needs to revise the moratorium; also noting that he would support expending up to \$3000 for expert witnesses. Mr. Lambert stated that there does not need to be any commitments at this time, but he will call to get estimates for the cost of the experts. Commissioner Vincent asked Mr. Lambert to proceed with getting estimates, and noted that the County needs to do what it needs to do to get this taken care of.

The Commissioners discussed a change order for Phase III, IV Courthouse renovations for changes to the Motor Vehicle area. Commissioner Vincent made a motion to approve the change order for the changes to the Phase III, IV remodel of the motor vehicle area. Commissioner Murdock seconded the motion, adding the finding that they money is in the budget and has been recommended by the Phase III, IV construction committee. All voted aye. Motion carried unanimously.

AUGUST 1, 2002

- The Commissioners attended a special meeting for the purpose of approving a contract extension between the Junk Vehicle Department and Sherrie Murphy for services as the junk and abandoned vehicle lot caretaker. In attendance were Commissioners Mitchell and Murdock, Junk Vehicle Director Dave Fowler, and Commission Assistant Glenda Howze. Commissioner Mitchell made a motion to approve said contract extension. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

AUGUST 2, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated August 1, 2002, in the amount of \$344,835.68.
2. Consideration of Contract(s): STD/HIV Task Order 01-07-4-51-104-0 (Amendment), to Contract #1999-021; Buffalo Service for Hebgen Water and Sewer; and Agreement for Receipt of Resort Tax Funds.
3. Request for Relocation of Common Boundary Lines Exemption for Stan Schlueter and Big Sky Resort, LLC., Corporation located in the S ½ of Section 21, T6S, R3E (Forest Service Road 166B, North of Lost Trails Road, Big Sky). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Signing of Closing Documents - Solid Waste System Revenue Bond – DNRC Revolving Loan Fund Program.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Mitchell moved to approve the consent agenda, as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.

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The Commission agreed to continue appointment of the interim Superintendent of Schools as it was noted at the July 30, 2002, public hearing that additional applications were received by the deadline date, and did not reach the Commission for review. They decided in fairness to the applicants that turned in their resume by the deadline, to take the time and review them all. Commissioner Vincent noted that none of the applicant's for this position were candidates running for the office. Former Gallatin County Superintendent of Schools Jill Richards shared her concerns with the Commission that were also addressed in her letter of resignation. She pointed out that this was a critical time for the office of the Superintendent of Schools as school budgets are being reviewed, mill levies are being set, which affects the tax bills, and teachers are coming in with certifications. She noted that there was no overlap of jobs and this meant that her assistant did not have the time or knowledge base to train anyone. She was concerned leaving the position vacant and not having any transition period involved. Ms. Richards pointed out that she spent three intensive days of training with two of the candidates as well as the person she recommended for this position. She encouraged the Commission to look at that and urged them to make a decision as soon as possible. The Commission announced that they would try to make a decision August 9, 2002, at noon. **No action taken.**

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Gallatin County Clerk and Recorder Shelley Vance reported on behalf of RID Attorney Susan Swimley that receipt of construction bids for Canary Road RID #382, was to be continued until August 13, 2002. **No action taken.**

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Gallatin County Attorney Marty Lambert reported on the public hearing and consideration of a resolution to create Hyalite Meadows RID #383. Notice of passage of the resolution of intent was published July 18 and 25, 2002, and mailed to all affected landowners July 17, 2002. The 15-day protest period expired August 2, 2002, and within that period, 5 written protests totaling 21 percent of the persons entitled, were filed with the Clerk and Recorder, and not withdrawn. This was significantly less than 50 percent of the record affected property owners that protested, so the district was not protested out by reason of legal protest. Commissioner Vincent asked if Mr. Lambert was in receipt of a letter written on behalf of John and Paula Lang, from the Wittich Law Firm. Mr. Lambert was not aware of the letter although, he had spoke with Attorney Mindy Nowakowski. Public comment speaking in support: John Geiger; Dwayne Hanson; Pete Rose; Randy Larimer; Joe Long; Kandy Rose; Rich Hovey; Janet Houser; and Ruth Johnson. Attorney Mindy Nowakowski, on behalf of the Lang and Townsend properties stated that both parties objected to their inclusion in the RID, and filed a formal protest. She noted that the proposed RID should not have gotten to this point because the petition did not pass by the required 60 percent. The Lang's and Townsend's also objected to their inclusion because at this time they will also be subject to two other potential RID's, on road easements that border their properties. They believed that their properties could potentially and significantly be burdened by these additional assessments. Ms. Nowakowski stated that the Lang and Townsend's residual due process rights were violated in this situation. She commented on the County RID policy, stating that in the past the Commission has chosen to reduce the required percentage, which was in clear violation of their own policy. She suggested if the 60 percent is essentially arbitrary, then the policy should be changed. She went on to outline the petitions submittal timelines, noting that it was convenient to leave the Lang's and Townsend's out of the initial petition to potentially achieve the 60 percent passage, and even more convenient to include them when it was time to assess each parcel. She pointed out that neither the Lang's or Townsend's were members of the Hyalite Meadow Property Owners Association, nor were they part of the initial meetings to discuss paving the subdivision roads through the RID process. Engineer Rick Kerin of Kerin & Associates pointed out a similar situation for the Commission in 1998 with Harvest Hills. He submitted Exhibit "A", a protest submitted for the Harvest Hills RID, from Bill Baldus, Exhibit "B", a petition to create an extended RID for Harvest Hills, and Exhibit "C", a map of Hyalite Meadows. Mr. Kerin replied to Ms. Nowakowski's statement regarding potential RID's on easement roads, stating that an RID cannot be done on an easement road because it is not a dedicated road. Those who spoke in support emphasized the benefit that the paving would be to the entire community with regard to public health, safety and welfare. Further discussion took place regarding access for the Lang and Townsend properties. After reviewing the letter submitted by Ms. Nowakowski, Mr. Lambert commented that two of the concerns expressed were procedural, and only one seemed to go to the substance of whether or not to add the Lang's and Townsend's into the RID.

He noted one thing that was not raised was the question of whether or not the properties are benefited by the RID. He stated that they clearly were benefited and they have not tried to make that argument. He added that the policy has been relaxed, and noted that it is not state law. He outlined reasons for having 60 percent and that it was based on a long history and experience that Gallatin County has with RID's. He gave a brief overview of the RID process, noting these are complex matters. Mr. Lambert stated that because it is not state law, the Commission can change the policy, and he did not think the Commission in this case was acting arbitrarily. He did not believe that the issue of being subject to potential RID's was a good argument, as it was speculation. He reiterated that the roads that currently exist in Hyalite Meadows are the most logical and appropriate access to those properties. Mr. Lambert commented on the argument that they were not involved in the process or notified, stating that he believed they both had significant time for input. Mr. Kerin verified that they were using the equal method of assessment, and if the two properties in question were divided the assessment would not change. He also added that unimproved lots would pay the same as improved lots. Commissioner Murdock commented regarding the on going process of improving and updating the RID policy and problems with notification of all affected parties. He stated that it was democracy at work and he congratulated those who want to form an RID. He stated that he was in favor this RID although; he questioned the inclusion of the Lang's and Townsend's. Commissioner Mitchell commented that it was always difficult to impose taxes on those who are unwilling to participate however, what persuaded her on the Townsend's and Lang's was that this is on an equal basis. She believed that they would ultimately benefit if they do subdivide their property, as they will pay less in the long run. After hearing the testimony and reading the letters of support and letters of protest, Commissioner Mitchell stated that she was in favor of granting the RID, adding that as more development occurs the dust and health problems will increase and property values will increase with the paving as well. Commissioner Vincent concurred, adding that the County Attorney addressed the legal questions to his satisfaction. He believed that public health and safety was a critical criteria and that dust and safety problems are real. He thought that the long term costs of leaving a road such as this in its current condition is greater than the cost of paving because of reduced maintenance over time. State law on RID's mandate property values must increase directly proportionate to the costs, and he believed that will happen and that the property values will increase possibly even faster with the paving. He reiterated that they all will be paying the same and that the Townsend's property has not been developed and he believed it would increase in value. **Commissioner Mitchell moved to approve creation of RID #383, finding that the notice of public hearing was published in the High Country Independent Press July 18 and 25, 2002, and mailed to all landowners on July 17, 2002; between July 18, 2002 and August 2, 2002, Gallatin County received 5 letters representing 6 lots protesting the creation of RID #383; there are 28 lots within the proposed district and this constitutes 21 percent of the owners of the lots within the proposed district protesting the creation of this district, this being Resolution #RID-02-383B. Seconded by Commissioner Vincent.** Because he was not persuaded by the argument, Commissioner Murdock was not vote in favor of the motion however; he stated that he would be in favor if it did not include the Townsend's and Lang's. He believed they would be subject at some point to other potential RID's, even though Mr. Lambert's argument was probably a valid one. He did not think they were benefited as much as the others, and they are not a part of the Hyalite Meadows Homeowners Association, and not in the middle of the subdivision nor have they ever been part of this subdivision. He was not intimidated by threats of litigation but he felt some things might develop where, if they left them out, they would not. Since they did not have the 60 percent, he did not believe they needed to include them now. He believed all the findings that were made a month ago to protect the revolving fund and the properties from extra taxes in case of failure were non-existent even though they were slightly under 60 percent. Commissioner Mitchell added that it appeared from the map that the only reasonable access to the Lang and Townsend properties is through these roads therefore, it was her opinion that they will benefit and will also need those roads. **Commissioners Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the bid opening for the Gallatin Gateway Pedestrian CTEP project. Greg Benjamin on behalf of Staley Engineering clarified that there would be two bids with each proposal. Schedule "A" would be for double shot chip seal and Schedule "B" would be for asphalt. If Schedule "B" came within the budget of \$240,000, which includes administration, engineering fees and construction, they will proceed with it. The bids were as follows: Hall Construction Services, Belgrade, Schedule "A", \$208,288, Schedule "B", \$212,340; and H & H Contracting, Butte, Schedule "A", \$252,601.16, Schedule "B", \$253,966.16. Both bids included a bid bond in the amount of 10 percent and Addendum #1 was acknowledged. Mr. Benjamin will review the bids and return August 13, 2002, with a recommendation. **No action taken.**

Gallatin County Fiscal Officer Ed Blackman reported on consideration of a resolution of intent to levy rural improvement district maintenance fees. The public hearing is scheduled for August 27, 2002. There was no public comment. **Commissioner Vincent moved to adopt Resolution of Intention #2002-085. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to annex Tracts 2, 3, 4, 5, 10, 11, 12, 13, 16, 17, and that portion of Tracts 6, 7 and 14, all in COS 95B in Sections 29 and 30, T1N, R7E, into the Bridger Canyon Rural Fire District. Ms. Vance examined the petition and certified that the petition contained the signatures of owners of 50 percent or more of the privately owned lands who constitute a majority of the taxpayers who are freeholders; their names appear upon the last completed assessment roll. The Bridger Canyon Rural Fire District Board of Trustees accepted this property for annexation. Ms. Vance requested that the Commission accept the petition and set a public hearing for September 3, 2002. There was no public comment. **Commissioner Mitchell moved to accept the petition to annex this property into the Bridger Canyon Rural Fire District, finding that the Clerk and Recorder entered all the reasons why this meets the requirements for acceptance, and setting the public hearing for September 3, 2002. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the receipt of petitions to abandon a portion of the 60' Frontage Road adjacent to Lot 8 Block 1 of the plat of Peakview Subdivision 2, located in Section 2, T3S, R4E; a portion of Milwaukee Avenue adjacent to Lots 218, 219, and 220 of Rainbow Subdivision, located in Section 14, T2S, R4E; an unnamed 60' right-of-way as shown adjacent to Lot 13 on the plat of Sourdough Hills Subdivision, located in the SW ¼ of Section 29, T2S, R6E; and a portion of Newman Lane as shown on the plat know as Minor Subdivision #176, located in the NE ¼ SE ¼ SW ¼ of Section 20, T2S, R5E. Ms. Vance examined the four petitions pursuant to 7-14-2601 MCA, and they contained the signatures of at least 10 qualified freeholders in Gallatin County therefore, they met the requirements of the road abandonment petition according to State Statue. There was no public comment. **Commissioner Mitchell moved to accept the four petitions to abandon roads as reported by the Clerk and Recorder.** She appointed herself and Ms. Vance as the road viewing committee with the assistance of Gallatin County Road and Bridge Superintendent Lee Provance. **Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Belgrade City Manager Joe Mennicucci, on behalf of Belgrade City-County Planner Jason Karp reported on the request for final plat approval for the Silo Minor Subdivision, described as Lot 1 of Gallatin Valley Homesteads Subdivision, situated in the NE ¼ of Section 3, T1S, R4E, PMM, Gallatin County, Montana. The request is for a two lot minor subdivision on 2.84 acres. Preliminary plat approval was granted on November 2, 1999. Mr. Mennicucci noted as of August 6, 2002, the applicant had demonstrated compliance with each of the conditions as required by preliminary plat approval. Staff recommendation was to grant final plat approval for the Silo Minor Subdivision. Developer Ed Benz made himself available to answer any questions. **Commissioner Vincent moved to grant final plat approval for the Silo Minor Subdivision, finding that the applicant demonstrated compliance with each of the conditions #1-15, as required by preliminary plat approval. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City Manager Joe Mennicucci, on behalf of Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for partial release of financial guaranty for completed improvements to the Milligan Minor Subdivision, located south of Belgrade off Jackrabbit Lane, on Floss Flats, in the NW ¼ of Section 13, T1S, R4E, PMM, Gallatin County, Montana. The request is for a 5-lot subdivision on 20 acres. Preliminary plat approval was granted on May 14, 2002. The applicant requested that the Commission allow the letter of credit in the amount of \$156,413, to be reduced by \$83,062.50, due to completion of Frank Road secondary access construction (150% of the \$55,375. estimate). The Gallatin County Road Department verified that the gravel road has been constructed to County Standard. The applicant's request is in accordance with Section 8-D-2 of the Gallatin County Subdivision Regulations, which states, "The Commission shall reduce bond requirements commensurate with the completion of improvements, subject to the Regulations." There was no public comment. George Durkin on behalf of the Gallatin County Road Department commented

that he had viewed the road. Further discussion took place with Gallatin County Attorney Marty Lambert regarding the letter of credit. **Commissioner Mitchell moved to partially release the financial guaranty for the Milligan Minor Subdivision, reducing it to the amount of \$83,062.50, finding it meets the requirements of the Road Department and the subdivision conditions. Seconded by Commissioner Vincent. Commissioner Mitchell suggested that the final letter be emailed to their staff on letterhead. None voting nay. Motion carried.**

Belgrade City Manager Joe Mennicucci on behalf of Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for a family transfer for Clark and Levi Rabel, located in the N ½ of Section 17, T1S, R4E, PMM, Gallatin County, Montana. (4190 Highline Road). Based on the information submitted, Mr. Mennicucci noted that it appears to meet the minimum requirements for exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act 76-3-201 through 76-3-210 MCA. However, the Commission would have to consider the applicant's testimony. Clark and Levi Rabel were sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Commissioner Mitchell questioned if a trust had been setup for the minor children. Mr. Rabel stated no however, they could have one set up. Further discussion took place regarding the need to have a trust set up in order to transfer property to minors. Gallatin County Attorney Marty Lambert believed that it was a legal requirement, and under those circumstances he requested that the Commission continue their decision so he could review it. Everyone was in agreement to a continuance. Commissioner Mitchell recommended that they continue their decision until the applicant's have met the necessary requirements as deemed by the County Attorney. Mr. Lambert will contact the Commission's staff to reschedule. **No action taken.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a resolution regarding the adoption of an interim zoning district and interim zoning regulation for the purpose of prohibiting coal bed methane production and development. There were no protests received during the 30-day protest period as required by state law. Ms. Madgic stated that they were going to amend the current Regulation, if adopted and broaden it to include oil and gas. However, that amendment would have to be done through a formal process at a later date. Notice was published twice in the High Country Independent Press and the Bozeman Daily Chronicle. Melissa Frost, on behalf of The Greater Yellowstone Coalition, thanked all those involved in getting the Regulation written. **Commissioner Mitchell moved to approve Resolution #2002-086. Seconded by Commissioner Vincent. Commissioner Murdock added the finding that there were no protests received. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on behalf of Gallatin County RID Attorney Susan Swimley on the pending resolution relating to \$110,000 for Looking Glass RID #380 bonds fixing the form and details and providing for the execution and delivery thereof and security therefor. **On the advice of bond counsel and the Clerk and Recorder, Commissioner Vincent moved to adopt Resolution #RID-02-380E. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

There being no further business the meeting was adjourned at 11:19 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 13th DAY OF AUGUST 2002

The meeting was called to order by Acting Chairman Jennifer Smith Mitchell at 9:08 A.M., at the Ruby Theatre, in Three Forks. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Murdock was on vacation.

Acting Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

AUGUST 5, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Commission Secretary Rose Blaskovich and Commission Assistant Glenda Howze. The Commissioners considered approval of a contract with Mona Jamison for lobbying assistance for the FY 02 Special Legislative Session. Commissioner Mitchell made a motion to approve said contract as written. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

Consideration of appointment of an Interim Superintendent of Schools was continued until August 9.

The Commissioners considered approval of a budget transfer request for HazMat. Commissioner Vincent made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed the mission of the Historic Preservation Board. Commissioner Mitchell suggested that the board should redraft the resolution to reflect the mission, goals and methods of the Gallatin County Historic Preservation Board including countywide representation. There should be a method devised to ensure that there is countywide representation on the board so that it does not become another Bozeman Historic Preservation Board. Commissioner Mitchell made a motion to give this mission to the board to work on. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

AUGUST 6, 2002

- The Commission conducted regular County business.

AUGUST 7, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent; Chief Deputy County Attorney Chris Gray, Grants Administrator Larry Watson, and Commission Assistant Glenda Howze. Items two and three were continued until August 8. The Commissioners considered approval of a road easement issue with the Andres Minor Subdivision. It was a condition of approval that a road easement be granted, and this condition has not been met. Commissioner Murdock made a motion to direct the County Attorney to contact the land developer and instruct him that he is in violation of the conditions of final plat approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a contract with BFI for Solid Waste composting. The agreement is between BFI, the Solid Waste District, and Gallatin County. The agreement ensures that proper procedures to increase the rates is used, and BFI acknowledges that the rate can be increased with a proper procedure. BFI will bring in a certain amount of garbage in exchange for a certain amount of funding. When the County's facility is operational, BFI will pay a tipping fee at the scales like all others do. All the garbage in the district will be hauled to the Logan Landfill. This will help to repay the loan and drives the revenue stream. Mr. Gray noted that there is a potential conflict and that if interests diverge, he will have to withdraw from representing both entities. Commissioner Mitchell made a motion to acknowledge all information presented by staff and sign the solid waste agreement between BFI, the Solid Waste District, and Gallatin County. Commissioner Vincent seconded the motion. In discussion it was noted that the Commission trusts the expertise of Mr. Gray in making their decision. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a JAIBG grant application for Gallatin County, in the form of an MOU between Gallatin County, Belgrade, Bozeman, Manhattan, and West Yellowstone. Gallatin County gets an annual allocation of JAIBG monies. Traditionally our Youth Probation doesn't use all of its allocation and the surrounding communities are polled as to their recommendation of the best use of the monies. This year, the money is best needed for teleconferencing capabilities in West Yellowstone. Chief Youth Probation Officer Vicky Nelson stated that she is using a portion of the money for training. Commissioner Mitchell made a motion to approve the JAIBG allocation to be utilized as described and recommended by staff. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

AUGUST 8, 2002

- The Commissioners attended a continuation meeting of the August 7 office meeting. In attendance were Commissioners Murdock and Mitchell, Accounting Clerks Renee Huyser, Mary Noack, and Liane Bennett, and Commission Assistant Glenda Howze. The Commissioners considered approval of claims listed on voucher list dated August 7, 2002 including numbers 8012765 – 8012815;

totaling \$154,212.94. Commissioner Mitchell made a motion to approve said claims. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an award for the Southwest Regional Juvenile Detention contract with Montana Board of Crime Control. Grants Administrator Larry Watson and Grants Assistant Jennifer Blossom attended this portion of the meeting. It was noted that this is for the 15% of the state request for the 9 counties. Commissioner Mitchell made a motion to approve said award. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

AUGUST 9, 2002

- A meeting of the County Commissioners was called to order at 11:48 a.m., August 9, 2002 for the purpose of appointing an interim Superintendent of Schools to fill out the term of Jill Richards. In attendance were Commissioners Murdock and Mitchell, Grants Administrator Larry Watson, Accounting Clerk Jennifer Blossom, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. Commissioner Mitchell made a motion to appoint Elmer R. Baldrige as interim Superintendent of Schools beginning immediately, through December 31, 2002; with the following findings: The Commission has gone above and beyond their statutory duties and advertised this position consistent with other appointments of this nature, specifically the appointment of interim Sheriff and Treasurer. A number of applications were received, and additional information requested from several applicants in order to make an informed decision. The time period for making the decision was extended in order to allow the Commissioners along with their Human Resources Director, time to review the applications and make calls to applicants and their references. The Republican Political Party, of which former Superintendent of Schools Jill Richards was a member, did not submit a recommendation as to their choice for the appointment, nor are they required to do so. Mr. Baldrige has proven he is a qualified applicant, who is able to start in the position immediately and is committed to fulfilling the appointment through December 31, 2002. It is the Commission's understanding, based on the advise of Ms. Richards, that it is very important for this position to be filled and the appointee serving as soon as possible, as August is the busiest time for the Superintendent's office. The term of this appointment fits Mr. Baldrige's schedule well, as he will be returning to college in January. Mr. Baldrige was also the only applicant who showed up to testify on his own behalf at the Public Meeting on July 30, 2002. Commissioner Murdock seconded the motion. In discussion it was noted that Commissioner John Vincent was unable to attend the meeting, but asked that it be noted for the record that he is in support of the appointment of Mr. Baldrige. All voted aye. Motion carried with a vote of two to zero.

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- Landfill Revenue for July 2002: \$77,693.09.
- Payroll for July 2002: \$1,180,694.38.
- Clerk & Recorder's Fees Collected for July 2002: \$97,163.68.
- A-101's for July 2002: \$138.24
- Application for Cancellation of Taxes for July 2002; \$823.28:
- New Hire Report for July 2002: Jennifer Anderson, Tracy Beck, Melba Booth, Joanna Broussard-Lanius, Karen Claes, Dineen Dawson, Garret Duthie, Michael Haeder, Michelle Harrison, Eric Henson, Jerri Kindelay, Joseph Kuiken, Joy Mac Pherson, Albert Mayo, Marcia Monforton, Elizabeth Nicholas, Breana Ploen, James Reynolds, Nancy Royal, Kellie Schmitt, Peter Schoenhoff, Eric Schwenninger, Dawn Shepherd, Michael Watson, Jason Westfall, Susan Whitcraft, Kathy Wilcox, Denise Young
- Terminated Employees' Report for July 2002: Derek Bernier, Gregory Calvert, Tara Clark, Timothy Connors, Kelly Doughty, Hope Gilligan, Johnathan Green, Steven Hinderer, Jennifer Koozer, Peggy Palylyk, Jill Richards, Linda Saunders, Maria Tande Lamb, Giovanna Tritico, Lanette Windemaker

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated August 8, 2002 in the amount of \$152,025.91.

2. Consideration of Contract(s): Negotiated Agreement between Gallatin County and Teamsters Union Local No. 2; Harvey Van Dyken & Sons Extension #2 to Contract #1994-079; and JTL Group, Inc., Modification to Contract #2002-029, Change Order #1.
3. Approval of Cancellation of Taxes – Number 4594-4597 in the Amount of \$246.98

Commissioner Vincent read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Mitchell reported on continuation of a public hearing and consideration of the first reading of a speed reduction ordinance for Cottonwood Road/Cottonwood School. The ordinance was first considered July 30, 2002, and there was public comment suggesting a step down speed limit. Commissioner Vincent read the revised ordinance. There was no public comment. **Commissioner Vincent moved to approve the first reading of Ordinance #2002-08. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** The second reading is scheduled for August 27, 2002.

Commissioner Vincent moved to amend the motion approving the claims to accurately reflect the voucher numbers as 8012816-8012947. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County RID Attorney Susan Swimley reported on receipt of construction bids for Canary Road RID #382. Ms. Swimley requested that regular agenda Item #3, award of construction bids for Canary Road RID #382, be continued until August 20, 2002. Jim Pierce on behalf of Thomas, Dean and Hoskins open the bids as follows: Gallatin Asphalt, Inc., 6465 River Road, Bozeman, contractor #10604, bid amount \$169,120; Prouse Construction, 7204 Clark Way, Bozeman, no contractor number noted, bid amount \$186,119; Big Sky Asphalt, 1220 N. Rouse, Bozeman, contractor #7581, bid amount \$162,114.75; and JTL Group, Inc., P.O. Box 9, Belgrade, contractor #10089, \$349,340. The engineer estimate for this project was \$146,000. Mr. Pierce noted that each bid contained a bid bond in the amount of 10 percent and each acknowledged receipt of Addendums #1 and 2. He took the bids for review and will return on August 20, 2002, with a recommendation. **No action taken.**

Commissioner Mitchell announced that the second reading for the speed reduction ordinance on Bear Canyon Road would be held August 20, 2002, as it was omitted on the agenda for today's hearing. **No action taken.**

Gallatin County Grants Administrator Larry Watson reported on the recommendation of bid award for the Gallatin Gateway Pedestrian Trail CTEP project. Mr. Watson noted the two bids received for this project were from Hall Construction Services, Belgrade and H & H Construction, Butte. The project was bid with two schedules, and Schedule "A" was for a double shot chip seal surface on the path, and Schedule "B" was for asphalt. In reviewing the bids, it was found that Hall Construction Services submitted the low bid for Schedule "B". Their bid was complete in the fact that it acknowledged Addendum #1, contained a bid bond in the amount of 10 percent, and all the other documents within the bid were in order. Mr. Watson recommended awarding the construction contract to Hall Construction Services for Schedule "B", in the amount of \$212,340. This amount was within the budget. **Commissioner Vincent moved to approve the bid for the CTEP project at Gallatin Gateway, to Hall Construction Services in Belgrade, Schedule "B", in the amount of \$212,340. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Attorney Marty Lambert reported on the public hearing and consideration of a resolution calling for sale of bonds for Hyalite Meadows RID #383. Mr. Lambert briefly outlined the timetable and publication dates. Notice of today's passage will be published in the High Country Independent Press August 15 and 22, 2002, and August 30, 2002, will be the deadline for submission of

the bids. In order to get this project completed in this construction year, on September 3, 2002, there will be the bid opening and consideration, award of the sale of bonds, and adoption of the resolution of intent calling for the sale of the bonds. On September 10, 2002, the bond resolution will be adopted and the actual sale of the bonds will be October 1, 2002. He pointed out that Gallatin County Treasurer Anna Rosenberry indicated if this time line was adhered to then taxation of the first year levy could be included on the tax notices to be sent out October 30, 2002. Mr. Lambert noted the only change in the resolution was on page (2) Section (5), striking 11 A.M., inserting 9 A.M. The change to the notice was on page (1) paragraph (2), changing the time and date for receipt of bids to August 30, 2002, at 5 P.M, and striking the words "at which time the bids will be tabulated". Mr. Lambert was to have those changes made to the notice before submitting to the Clerk and Recorder for publication. Commissioner Mitchell noted an email received from Marshall White after the closing of the protest period. Mr. Lambert stated that he replied to the email and Mr. White's concerns were answered to his satisfaction. There was no public comment. **Commissioner Vincent moved to adopt Resolution RID-02-383C, noting an amendment to the resolution on page (2), Section (5), striking 11 A.M., inserting 9 A.M. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

The Commission opened the meeting for public comment. Viki Kosevich, a resident of Three Forks spoke on behalf of concerned citizens regarding the proposed strip club in Broadwater County. Ms. Kosevich stated that they were trying to get an ordinance passed or take whatever steps they could to get some help to keep bars in Gallatin County from turning into strip clubs. To her knowledge at this time there is no ordinance in the State of Montana that zones in or zones out these types of establishments. She noted that in a day and a half they petitioned and gathered 278 signatures. She requested assistance from the Commission to help them with the proper procedures needed for taking action on this issue. Gallatin County Attorney Marty Lambert commented that the most reasonable, legal and defensible way to proceed with this issue would be zoning. He suggested setting up a meeting as an information discussion on the matter and inviting everyone, including the Broadwater Commission and area residents to attend. At that time he could have better idea for what the legal perimeters might be. Further discussion took place in regards to setting up zoning on an interim basis, which is for the purpose of protecting public health, safety, welfare and morals. They also discuss the procedures of an ordinance. It was suggested that Ms. Kosevich check with the Commission's office with regards to setting up a meeting date to discuss a plan of action and to also check with the Town of Three Forks regarding an ordinance. It was determined that the Commission would not accept the petition at this time since this was not on the agenda, and submit it at the advertised meeting to be held for discussion. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 9:52 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING TUESDAY THE 20th DAY OF AUGUST 2002

The meeting was called to order by Chairman Bill Murdock at 9:00 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Clerk to the Board Shelley Vance.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

AUGUST 12, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. The Commissioners considered approval of a request to charge tipping fees at the Gallatin County Landfill at Logan. Commissioner Vincent made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed a representative to the Montana Workforce Investment Areas. Mr. Jim Hunt has served in this capacity, but may no longer be interested. Commissioner Vincent stated that he will look into it and find a suitable replacement if necessary.

The Commissioners considered the attendance of office staff to at least one day of the MACo Annual Conference. It was agreed that each would attend one day.

The Commissioners discussed lobbying efforts at the 2003 Legislative Session. It has come to the attention of the Commission that each Elected Official and staff member will be required to register and pay the \$150.00 fee prior to lobbying on the County's behalf. Chief Deputy County Attorney Chris Gray will look into this further. When a definitive answer is arrived at, a memo will be sent to all staff notifying them of the requirements.

AUGUST 13-16, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated August 15, 2002, including check numbers 8012948-8013221 totaling \$615,993.23.
2. Consideration of Contract(s): Contract extension to Contract #2002-34, SBIR Technical Assistance; Modification to Figgins Sand and Gravel RID #378 Contract Change Orders #8, #9, and #10; Change Order #1 to Contract 2002-097.
3. Approval of Applications for Cancellation of Taxes – numbers 4599-4502, in the amount of \$388.96.
4. Request for Relocation of Common Boundary Exemption for Raymond and Carolyn Tatarka and Dennis and Jean Moylan described as the SE ¼ of Section 28, T1S, R5E. (2424 Harper Puckett Road, Bozeman). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Relocation of Common Boundary Exemption for Jack D. and George A. Reich, described as the SE ¼ of Section 19, T1N, R1E (804 Broadway, Willow Creek). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. The contract extension for SBIR Technical Assistance, change Order #1 to Contract 2002-097, and cancellation of taxes were placed on the regular agenda for further discussion. There was no public comment. **Commissioner Vincent moved adoption of the remaining items on the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Grants Administrator Larry Watson stated that Chief Deputy County Attorney Chris Gray reviewed and approved the extension to Contract #2002-34, SBIR Technical Assistance. Mr. Watson explained that he had just received the contract this morning, which is why he was handing the document to the Commission at this time. **Motion by Commissioner Mitchell to approve the extension of the contract. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Commissioner Mitchell explained that Change Order #1 to Contract 2002-097 was for the Courthouse remodel from Taylor, Hansen, Kane Architects totaling \$12,100. **Motion by Commissioner Vincent to approve the change order. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Mitchell clarified that the Cancellation of Taxes were for numbers 4501, 4502, 4599, and 4600 in the amount of \$388.96. **Motion by Commissioner Mitchell to approve the cancellation of taxes. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Commissioner Vincent announced that one vacancy exists on the Airport Authority Board due to the term expiration of Steve Williamson. The position is for a five-year term, and has been advertised in the High Country Independent Press and the Bozeman Daily Chronicle. Applications have been received by Mr. Williamson for reapplication, as well as Mark Kempf, George Randolph Lawrence, David Kack, Thomas Nagorski, and Dennis Guentzel. There was no public comment. **Motion by Commissioner Mitchell to appoint Thomas Nagorski. Seconded by Commissioner Vincent.** Commissioner Murdock stated support of reappointing Steve Williamson because of his knowledge as serving on the

board. Commissioner Mitchell stated support for Mr. Nagorski to give the board a new, fresh approach. **Commissioner Mitchell voting aye, Commissioners Murdock and Vincent voting nay. Motion dies. Motion by Commissioner Murdock to appoint Steve Williamson. Seconded by Commissioner Vincent. Commissioners Vincent and Murdock voting aye, Commissioner Mitchell voting nay. Motion carries.**

Commissioner Murdock announced that the City-County Board of Health Board appointment would be continued until August 27, 2002.

Commissioner Mitchell announced that one vacancy exists on the Open Lands Board due to the resignation of Ray Rasker. This appointment is to fill out the remainder of Mr. Rasker's term that expires February 9, 2004. This position has been advertised in the High Country Independent Press and the Bozeman Daily Chronicle with applications received from Mike Phillips, Don Jackson, and Gus Pfaehler. The Commission has solicited comments from the Open Space Lands Board regarding the appointments. There was no public comment. **Motion by Commissioner Mitchell to appoint Don Jackson, who was recommended by the Open Space Land Board. Motion dies for lack of a second. Motion by Commissioner Murdock to appoint Mike Phillips. Seconded by Commissioner Vincent. Commissioners Murdock and Vincent voting aye, Commissioner Mitchell voting nay. Motion carried.**

Commissioner Murdock announced that Canary Road RID #382 Attorney Susan Swimley has advised the Commission that all construction bids received were at least \$14,000.00 over bid, and suggests that all bids be denied in light of this fact. Ms. Swimley has suggested that the county could "re-bid" in January when the prices may be lower. **Motion by Commissioner Mitchell to deny all bids because they are all over bid. Motion seconded by Commissioner Vincent.** Jim Pierce, engineer with Thomas, Dean, and Hoskins, requested that the Commission postpone any action for one week to see if he can negotiate and/or come up with any alternatives on the project. Commissioners Vincent and Murdock state that they support delaying action for one week. **Commissioner Mitchell withdraws the motion, and Commissioner Vincent withdraws his second. Motion by Commissioner Vincent to continue award of the construction bid for Canary Road RID #382 for one week. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** Commissioners Mitchell and Murdock request and advise that Mr. Pierce work with and discuss the issues with Attorney Susan Swimley.

Commissioner Murdock announced that the consideration of resolution calling for the sale of bonds for Canary Road RID #382 will be continued for one week due to the continuance of the award of construction bids.

Commissioner Vincent summarized the second reading of a speed reduction ordinance for Bear Canyon Road. The ordinance was posted by the Clerk and Recorder in the main lobby of the Gallatin County Courthouse and made available for public review and copying in the office of the Clerk and Recorder after the adoption of the first reading on July 30, 2002. **Motion by Commissioner Vincent to adopt the second reading of Ordinance #2002-07. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Randy Johnson reported on the public hearing and consideration of a request for a one-year extension of the preliminary plat approval for the Spanish Peaks Estates Major Subdivision, located between the Big Sky Meadow Village, Mountain Village, and the proposed Pioneer Mountain Resort development. Preliminary plat approval was granted August 24, 1999, and will expire August 24, 2002. Bob Lee from Morrison-Maierle, Inc., and representing Spanish Peaks LLC, explains that due to a change of ownership his clients are not quite ready to submit the applications for final plat approval and are requesting the one-year extension. There was no public comment. **Motion by Commissioner Mitchell to grant the one-year extension of the preliminary plat approval for the Spanish Peaks Estates Major Subdivision. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a family transfer exemption for Dave and Jean Bauerly, located in the NW ¼, of Section 19, T1N, R6E (62227 Forswall Road, Belgrade). Mr. O'Callaghan briefly summarized the proposal, noting that it was unclear whether this claim meets the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act. Brad Bauerly, the son, holding power of attorney for Dave Bauerly was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Mitchell moved to grant the Bauerly family transfer exemption, finding that it was consistent with the Montana Subdivision and Platting Act 76-3-201 to 76-3-210. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Clerk and Recorder Shelley Vance reported that a petition to annex Tract E-1 of COS 1120A and Tract A-1 of COS 650A, located in the S ½ of Section 3, T2S, R4E into the Belgrade Rural Fire District was received. Ms Vance certified that pursuant to Section 7-33-2125 M.C.A., the property is adjacent to the fire district, the petition contains the signatures of owners of 50% or more of the area of privately owned lands included within the area to be annexed who constitute a majority of the taxpayers who are freeholders of such area, and whose names appear upon the last completed assessment roll. The Belgrade Rural Fire District Trustees have accepted the property for annexation. Ms Vance recommended that the Commission consider acceptance of the petition and set a public hearing date for September 17, 2002, in order for her to comply with public hearing notice requirements. **Motion by Commissioner Vincent to accept the petition and set a public hearing date for September 17, 2002 for consideration of the annexation. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported that C&H Engineering, on behalf of the Florence J. Carter Life Estate et.al. requested final plat approval of the Carter Minor Subdivision, a one lot minor subdivision on 1 acre with the remainder property being over 160 acres. The subdivision is located east of Belgrade on Harper Puckett Road. The property is located in the SE ¼, NE ¼ of Section 20, T1S, R5E, PMM, Gallatin County, Montana. Preliminary plat approval was granted on April 9, 2002. Mr. Karp noted as of August 20, 2002, the applicant had demonstrated compliance with each of the conditions as required by the preliminary plat approval. The staff recommendation is to grant final plat approval of the Carter Minor Subdivision. **Motion by Commissioner Mitchell to grant final plat approval for the Carter Minor Subdivision, finding the applicant demonstrated compliance with each of the conditions required by preliminary plat approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp stated that Milton and Kyleen Segmiller requested that the public hearing and consideration of their family transfer exemption be continued until September 3, 2002. The Segmillers are busy with harvest and are unable to attend today's hearing. Chairman Murdock set continuance of the hearing until September 3, 2002.

Chairman Murdock requested Gallatin County Attorney Marty Lambert start the public hearing regarding the consideration of a resolution related to general obligation bonds and operating expenses for the Gallatin County Detention Center by addressing the timeframe the Commission is under and a report on the last meeting of the Criminal Justice Coordination Council (CJCC) held on August 19, 2002. Mr. Lambert explained that the election administrator has given the Commission a date of August 22, 2002, for passage of a resolution to place a question to the voters on the countywide general election held on November 5, 2002, in order for the election administrator to prepare the ballot. He submitted a letter dated August 20, 2002 from District Court Judge Mike Salvagni who is also the Chairman of CJCC. The letter stated in summary "The prevailing CJCC sentiment is that at least three negative sentiments were apparent in last month's negative jail vote – cost, site, and the lack of a systems assessment. The CJCC believes the community will have difficulty coming together to support a new jail until those three concerns have been acknowledged and addressed. The CJCC recommends that the assessment of Gallatin County's criminal justice system should include recommendations regarding jail capacity and method of supervision of adult offenders; and that the Gallatin County Commission should not propose a ballot issue to approve bonds to build a jail until the Commission receives the assessment's recommendations regarding the jail." Mr. Lambert stated support for the systems assessment and the need for citizens to buy into the recommendations of the assessment prior to asking

them to approve bonds to build a jail. Mr. Lambert cautioned the Commission of the possibility the assessment might identify law enforcement needs and criminal justice needs that have not been addressed before and will cost money. There are needs for a full time public defender's office, a residential re-entry facility, mental health providers, the state department of corrections funding is lacking and those costs will be pushed onto the counties, and the assessment itself will cost money. Mr. Lambert explained that the county's insurance carrier would be recommending regulating the temperature, addressing overcrowded issues, and additional staff relating to the current jail. When it is time to renew the policy it will cost the county. If the Commission is not able to correct or address these issues, then it will cost the county by increased premiums. Archie Alexander, member of the Citizens of Cost Effective Public Safety recommended that the Commission follow recommendations of CJCC for reasons of sound policy and political practicality. He stated that a systems assessment would address the needs of the county and identify costs so that the Commission will know what to ask for. Mr. Alexander concluded by requesting the Commission defer a vote of the people until the assessment is completed. Darrel Behrent, member of the project team explained his reasons for casting a dissenting vote on submitting the question to voters asking for \$13,000,000 bonding authority. His main opposition was that the Commission not fit a project into a budget, but to support the assessment, identify the needs, determine the costs, get a unanimous decision by the Commission, and then ask the voters. Jarvis Brown, current Bozeman City Commissioner, who was involved in one of the study committees, stated that the City of Bozeman is impacted. Mr. Brown stated concerns related to safety issues, suicides, workers in the jail, increased costs with time delays, and indecisiveness within the community. He supports the assessment study if that's what it takes, appreciates the efforts of the tasks force, suggests the Commission consider possible mediation, and encourages the Commission to do it right. Attorney Jennifer Bordy encouraged the Commission to put the ballot issue before the voters in November for the construction of a new jail and go forward with the system assessment at the same time. She believes that the voters opposed new construction of new law and justice center. Brian Leland, member of Citizens for the Detention Center, stated support for placing an \$18.3 million dollar bond obligation question on the November ballot. He is concerned about possible negligence on the County's part if something happens and potential cuts in revenue from the 2003 legislature and federal government reductions. He also stated support of completing a needs assessment. Mr. Leland concluded by stating that if people vote it down, the county will still have more information on what the public is thinking, and the election will not cost extra dollars if done in November. There was no further public comment. Commissioner Mitchell read the proposed resolution explaining the draft resolution was prepared by her, Fiscal Officer Ed Blackman, and reviewed by Chief Deputy County Attorney Chris Gray. The resolution includes methods to pay for the jail systems assessment, new designs, construction of the jail, and commits the county to utilize the existing facility to its maximum potential. The resolution supports the sale of the Oak Street site and commits the profit from the sale to pay for the assessment, new design, and construction. Commissioner Mitchell stated that the Commission made a promise to the public to place this on November's ballot, and the question will not cost the taxpayers additional money, and she believes that regardless of the outcome the Commission will learn more of what the voters are thinking. Commissioner Vincent states concern regarding a commitment from the diverse groups that they will commit to the end product of a system assessment. Mr. Lambert responds by stating that there is no guarantee of a total buy in of all of the groups. He believes that the assessment will show how the county has not been proactive of supporting a jail facility and there will be a buy in of most of the people. Commissioner Vincent asked Mr. Alexander what if we get an assessment that you are not happy with and what if we get an assessment that is significantly higher costs? Mr. Alexander responded that he could not make an iron clad commitment on how we all would respond. But if the systems assessment is done properly, you will get most of us on board. A lot will depend upon the leadership of the Commission and CJCC. Key leaders of the CJCC are in favor of a system assessment and caution everyone not to assume what the assessment will produce. There is a possibility that it will cost more, but we need to take into account needs of public safety and cost effective ways to maintain a high level of public safety. Commissioner Vincent asked for Mr. Leland's response. Mr. Leland responded by stating that the Commission has had 3 opportunities over the last 4 years to place the question on the ballot, and has not, as of yet, placed the issue before the voters. He asked what type of participation do you expect to get if the Commission is not behind the issue. He concluded by stating his desire to place the citizens committee question on the ballot using the 16th Street site. Commissioner Murdock stated support of the recommendation to go through a systems assessment, not put the question to the voters in November, because a systems assessment will help explain to the voters what they are voting on. Commissioner Vincent voiced his concerns of liability issues related to the insurance adjuster, but based on the vote in July, there is a need for a systems assessment in order to produce a positive vote on the jail. If the Commission is able to complete a systems assessment and conduct a special mail ballot election in the spring of 2003, they will not delay the construction project significantly. Commissioner Vincent stated his belief that the Commission will lose credibility and support of voters if the issue was placed before the voters in November and the best way to resolve the issue is to complete a systems assessment and put it to a vote of the people in the

spring of 2003. Commissioner Mitchell stated the Commission passed a resolution of intent to put a question before the voters in November 2002, and if the issue fails, there is very valuable information to be learned. **Motion by Commissioner Mitchell to adopt Resolution 2002-087. Seconded by Commissioner Vincent.** Commissioner Vincent states that the board has not agreed to the sale of the Oak Street property and they might find ways to increase revenue other than selling the property. Adopting this resolution will commit the Commission to selling the property. Commissioner Murdock concurs and states that he wants a ballot issue to pass, so if the systems assessment will help pass the issue he is willing to postpone placing the question to voters in November. **Commissioner Mitchell voting aye, Commissioners Vincent and Murdock voting nay. Motion fails.** Commissioner Mitchell states that consideration of a resolution to increase the mill levy for the operations of the new jail is a mute point. The Commission will not consider this resolution at this time. Chairman Murdock announced that the CJCC would report to the Commission on the scope of work needed for the systems assessment on September 4, 2002.

There were no pending resolutions. There being no further business the meeting was adjourned at 11:20 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 27th DAY OF AUGUST 2002

The meeting was called to order by Chairman Bill Murdock at 9:09 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent and, Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

AUGUST 19-21, 2002

- The Commissioners conducted regular County business.

AUGUST 22, 2002

- The Commissioners attended a special meeting for the purpose of approving an LLEBG grant application. In attendance were Commissioners Murdock and Vincent, Finance Officer Ed Blackman, Grants Assistant Jennifer Blossom, and Commission Secretary Rose Blaskovich. The grant request is for \$9,999.00 for equipment, with a County match of 10% (\$1,100.00). The money for the match will come from the current operating budget for the Sheriff. If approved, Mr. Blackman will prepare the appropriate budget amendment. Commissioner Vincent made a motion to approve the LLEBG grant application contingent upon Finance Officer Ed Blackman and Chief Deputy County Attorney Chris Gray's approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

AUGUST 23, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated August 22, 2002, in the amount of \$296,903.96.
2. Consideration of Contract(s): Jill Abbott-Stoltzfus, R.D.-Gallatin Rest Home; Dr. Pam Hiebert, M.D.-Gallatin Rest Home; City of West Yellowstone, Library Service Agreement; City of Manhattan, Library Service Agreement; City of Three Forks, Library Service Agreement; and MSU Extension Service Budget Agreement for FY 2003.
3. Request for Relocation of Common Boundaries Exemption for Jeffrey E. Gunderson, located in the NE ¼ NW ¼ of Section 19, T7S, R4E (Forest Service RD 312BA, Beaver Creek area, Big Sky). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

4. Request for Agricultural Exemption for Josephine Sinnema Gunst, Frances June Flikkema, and Chester R. Sinnema, located in the S ½ of Section 26, T1S, R3E (SW of the intersection of Canal Road and Churchill Road, Amsterdam). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Relocation of Common Boundary Lines Exemption for Edeen Hill and John Rolander, located in the NE ½ of Section 35 and the SE ¼ of Section 26, T6S, R3E (Chief Joseph Trail, Big Sky). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Relocation of Common Boundary Lines Exemption for Howard and Barbara Kamerman and Huttinga Farm, LLC, located in the NE ¼ of Section 7, T2S, R4E (Churchill Road, Manhattan). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock noted regular agenda Item #17; public hearing and consideration of a request for preliminary plat approval for the Brinkman Minor Subdivision would be continued indefinitely. **No action taken.**

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

One vacancy exists on the City-County Board of Health due to the loss of Mark Cechovic. Appointment to this position is to fill out the remainder of Mr. Cechovic's term, to expire on January 6, 2003. Appointment to this position also requires agreement of the Bozeman City Commission. To date, two applications were received from Timothy Ford and Barbara Vaughn. The current Board of Health members reviewed the applications on August 21, and recommended approval of Timothy Ford to fill the vacancy. There was no public comment. **Commissioner Vincent moved to approve the appointment of Timothy Ford. Seconded by Commissioner Mitchell, noting his qualifications. None voting nay. Motion carried.**

Attorney Susan Swimley representing Gallatin County on Canary Road RID #382 reported on the continuation of award of construction bids, noting that the bids received for this project were all over budget. At last weeks hearing Engineer Jim Pierce on behalf of Thomas, Dean & Hoskins requested a continuance in order to try and negotiate with the lowest responsible bidder to meet the requirements. Ms. Swimley stated that negotiations have been positive however; they were not completed to her or Chief Civil County Attorney Chris Gray's satisfaction. She requested the Commission continue this and regular agenda Item #3, the resolution calling for the sale of bonds until September 3, 2002. Commissioner Mitchell questioned the legality of notice requirements because of the negotiation. Ms. Swimley confirmed that both she and Mr. Gray were comfortable with the negotiation within limited perimeters. Based on that advice, the Commission was in agreement to the continuance. **No action taken.**

Dave Fowler representing the Gallatin County Road and Bridge Department reported on receipt and opening of bids for the West Yellowstone area snowplowing. One bid was received from Targhee Redi Mix, PO Box 858, West Yellowstone, MT. This is a three-year contract and those bid amounts were as follows: 1st year- \$12,724; 2nd year- \$13,842; and 3rd year-\$14,950. Mr. Fowler requested two weeks to review the bid and equipment to be used. Mr. Fowler will return September 10, 2002, with a recommendation. **No action taken.**

George Durkin representing the Gallatin County Road and Bridge Department reported on receipt and opening of bids for road improvements to Jackson Creek Road. The following bids were received: Gallatin Asphalt, Inc., 6465 River Road, Bozeman, MT-\$170,757.44; Big Sky Asphalt, PO Box 835, Bozeman, MT-\$140,126.72; and JTL Group, PO Box 9, Belgrade, MT-\$121,920.20. Each bid contained a bid bond in the amount of 10 percent and acknowledged the addendum. Mr. Durkin will return September 3, 2002, with a recommendation. **No action taken.**

Commissioner Mitchell reported on the public hearing and consideration of the second reading of a speed reduction ordinance for Cottonwood Road/Cottonwood School, making it unlawful to travel at a speed greater than 15 mph on Cottonwood Road, for 1/10th of a mile prior to reaching Cottonwood School and extending to 1/10th of a mile after passing Cottonwood School; and, to travel at a speed greater than 25 mph on Cottonwood Road prior to the 15 mph limit for 1/10th of a mile on either side of the school. The first reading was approved August 13, 2002. Public comment: Phyllis Birdwell spoke in support. **Commissioner Mitchell moved to approve the second reading of Ordinance #2002-08. Seconded by Commissioner Vincent. None voting nay. Motion carried.** The ordinance will take effect 30 days from today.

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Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to levy rural improvement district (RID) maintenance fees. Notice was mailed to all owners of record August 8, 2002, and published in the High Country Independent Press in accordance with law August 8, 2002, and a correction notice with the correct meeting location was published August 15, 2002. Jack Schunke on behalf of Morrison-Maierle noted very little concern expressed this year with the RID maintenance projects however; he did receive some inquiries with regards to weed spraying. He further explained that the funds being collected are not only for annual maintenance but also they are building a pool of funds to complete future maintenance such as overlays. He noted an increase in construction costs and stated the major reason for increases over 5 percent were due to the large construction projects to come in the near future and the smaller increases were due to inflationary increases. Public comment: Jack McCord (#353 Sweetgrass Hills Sub); and Phyllis Birdwell (#352 Baxter Creek #1 Sub). Mr. Schunke stated that he would follow up with individuals who had concerns to provide answers to their questions. **Commissioner Vincent moved to adopt Resolution #2002-091. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

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Gallatin County Fiscal Officer Ed Blackman gave a brief summary and presentation of the final budget for FY 2003. Commissioner Murdock noted that the budget was officially adopted August 22, 2002. Mr. Blackman reported that the budget will be \$72,541,886, a 9.2 percent increase over last year, which was \$66,400,195; the millage will go up slightly for the county taxpayers, primarily due to the inflation factors that the State of Montana allows under HB124; the biggest increases were in Special Revenue Funds which are grants, and outside the control of the County Commission; the general fund and general government decreased by 15 percent; Debt Service increased by 22 percent; Capital projects was the biggest increase of 69 percent; Enterprise funds increased 2 percent; Internal Service funds decreased by 5 percent; and the Trust & Agency funds increased by 2.49 percent. There was no public comment. Copies of the budget will be available at the libraries, and the offices of the Clerk and Recorder, the Commission and the Fiscal Officer. **No action taken.**

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Gallatin County Planner W. Randall Johnson reported on the continuance of a public hearing and consideration of a request for preliminary plat approval for Gaston Engineering, on behalf of Doug Espelien for the amended plat of Tract 19A-1 of the Ross Creek Subdivision, to subdivide an existing 10-acre lot into two 5-acre residential lots. Water supply and sewage disposal will be provided by individual water wells and septic systems within each lot. The applicant requested two variances from the Road Design Standards of the Gallatin County Subdivision Regulations. The property is described as Tract 19A-1 of the Amended Plat of Tract 19A of the "Amended Subdivision Plat of Tracts 18, 19, & 20 of Ross Creek Subdivision" and Tract 20B of the "Amended Plat of Tract 20A & a portion of Tract 21 of Ross Creek Subdivision" situated in the NE ¼ of Section 34, T1N, R5E, PMM, Gallatin County, Montana. The property is generally located at the southeast corner of the intersection of Springhill and Penwell Bridge Roads. The Ross Creek Subdivision was platted in 1973. The major subdivision consists of 48 lots, each lot being 10+ acres in size. On May 28, 2002, the Planning Board considered this application and passed a motion to recommend approval, finding that strict compliance with the paving requirements would result in undue hardship for the applicant, and the paving of Clearview Road is not essential to the public health, safety, and general welfare. The Board recommended approval of the proposed amended plat with a 4:2 vote. On June 11, 2002, the Commission opened this hearing for consideration and determined that an additional variance was necessary. No action was taken. It was noted that the entire parcel has an encroachment off Springhill Road, and access to Lot 2 is proposed to be provided by Clearview Road. Mr. Johnson summarized the staff report, which contained criteria for the Commission to evaluate for considering the subdivision. The first variance is from Section 7.H. of the Gallatin County Subdivision Regulations, which requires roads within subdivisions that carry greater

than 100 trips per day, to be built to the paving standards in the Regulations. Clearview Road, an interior subdivision road for Lot 2 currently exceeds 100 trips per day. The applicant submitted a variance not to pave Clearview Road to county standards. According to the applicant the existing 10-acre lot already has access to Clearview Road and the new lot will access Springhill Road thereby, avoiding additional daily trips on Clearview Road. There are approximately 15 homes on Clearview Road, because many of the lots have under gone subsequent divisions of property with no requirement to pave Clearview Road. The second variance is from Section 7.J.3.; Table 1, Street Design Standards, of the Gallatin County Subdivision Regulations, which establishes a maximum cul-de-sac length of 1,000 feet for minor subdivision roads. The length of Clearview Road at the location of the proposed subdivision is approximately 4,700 feet long. The right-of-way easement is in place to extend Clearview Road north to intersect with Penwell Bridge Road. However, this extension would result in an unsafe intersection. Gallatin County Road & Bridge Department and MDOT indicated they would not allow Clearview Road to be extended to this location. The extension of Clearview Road would also require the crossing of Ross Creek and adjacent riparian land. Mr. Johnson pointed out that this was clearly an unsafe intersection to have these three roads intersect. Although the property is not within a critical wildlife habitat area, officials from the Montana Department of Fish, Wildlife & Parks provided written comments on the proposed subdivision. The proposed subdivision was reviewed for conformance with the Gallatin County Plan. The development proposal appears to comply substantially with the Plan according to the following findings: a. the proposed subdivision is an "infill" development; b. the proposed development is located near and adjacent to existing residential uses; c. the property is not located within important farmland, nor is the property used for agricultural purposes; and d. the property is not located within a critical fish or wildlife habitat area. The County Commission needs to make the following determinations: 1. A determination as to whether or not the requested variances should be granted; According to Section 13 of the Gallatin County Subdivision Regulations, the County Commission may grant reasonable variances from the design and improvement standards of the regulations where it is found that strict compliance would result in undue hardship and is not essential to the public health, safety, and general welfare; 2. A determination as to whether or not the application complies with the Gallatin County Plan; 3. A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and 4. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the preliminary plat application, the same conditions listed at the June 11, 2002 hearing would apply. Commissioner Murdock noted that Fish & Game was not in favor of the proposal however, if this request were approved then they would suggest building envelopes to be specified and located south of the ditch on Lot 2, and north of Ross Creek on Lot 1, and no development within 100 feet of the active channel. They were concerned that septic systems are adequately designed to accommodate high groundwater and avoid contamination of groundwater and Ross Creek. It was also suggested that efforts should be made to restore riparian vegetation and limit the impacts of livestock on the banks to allow recovery, noting that without these safeguards, the stream is likely to be impacted negatively, and potential for property damage, flooding, and erosion downstream are likely. Further discussion took place regarding the Fish & Game concerns, suggestions, and floodplain requirements. Although, it could be added as a condition, Mr. Johnson noted that it would be hard to meet the 100-foot building envelope from Ross Creek, as the house location would be on the property line. He added that the property has never been used for livestock. The applicant's representative Dennis Foreman stated that they did some groundwater monitoring and found two acceptable areas for drain fields; they had no problem with setting structures back from the streams; and that they could add a condition prohibiting livestock that could damage the riparian areas. He added that they have acceptable building sites. Commissioner Mitchell was not in favor of the request because this area is very wet and it was not a place to build a house, noting that they currently have the right to build one house and finding a place to build another one and creating the problem with access would not be a workable or practical situation. She agreed with points made by Fish, Wildlife and Parks, and noting by the engineers own admission it was a riparian area. Commissioner Vincent concurred, stating that he would need to learn a lot more to mitigate the concerns expressed by Fish, Wildlife and Parks, and was not sure the applicant could meet the mitigating conditions expressed. Even though they offered some mitigation, he did not see anything that those concerns could be accommodated. **Commissioner Mitchell moved to deny the request for preliminary plat approval for Amended Tract 19A-1 of the Ross Creek Subdivision, finding that the proposal creates more problems and does not mitigate the needs of the impacts being created by putting two residents on this site and utilizing the letter from the Fish, Wildlife and Parks as part of the findings. Seconded by Commissioner Vincent. Commissioner Mitchell noted that there was no way to get out of the wet area, which makes it more of a problem. Commissioner Murdock concurred. However, had the developer spent some time with Fish & Game to try and mitigate some of the impacts, he believed that it could have been worked out. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of final plat approval for the Bozeman Pass Telecommunications Facility Subdivision created by lease. Preliminary plat approval was granted January 16, 2002. The proposal creates a 3,000-square-foot parcel for lease purposes (Lot L) on property located in the SW ¼ of Section 13, T2S, R7E, PMM, Gallatin County, Montana. The property is generally located approximately one half mile south of Interstate 90 on the Bozeman Pass. Ms. Madgic confirmed that they met all the conditions of approval and recommended final plat approval be granted. There was no public comment. **Commissioner Mitchell moved to approve the request for final plat for the Telecommunications Facility on the Bozeman Pass, finding it meets all the requirements and conditions, as noted by staff. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of amendments to the Bozeman Pass Area Interim Zoning Regulation (Moratorium and CUP regulation). To date, the Commission has acted on the following resolutions pertaining to the Bozeman Pass Interim Zoning District: July 30, 2002-Resolution #2002-083, Adoption of Bozeman Pass Area Interim Zoning District & (CUP) Regulation; and August 6, #2002-086, Adoption of Bozeman Pass Area Interim Zoning District & (Moratorium) Regulation (regulating coal bed methane). Ms. Madgic explained that both those regulations were limited to coal bed methane development. Since that time the Huber Corporation obtained a permit from the State Board of Oil and Gas for a conventional gas well. That permit will become active September 15, 2002, allowing time to amend these regulations and broaden the language adding oil and gas production and development, including coal bed methane exploration and/or development. Both the CUP regulation and the Moratorium regulation are being run concurrently, for a one year period with the option of extending if more time is needed to conduct studies. Gallatin County Attorney Marty Lambert gave a brief update on the events leading up to the changes and clarified the changes as proposed. Further discussion took place with regard to broadening the language rather than limiting it to specifics. Ms. Madgic noted that there were 5 letters of support received from the following: Biel; Hopkins; Wanderer; Harmon; and Hackl. Notice was published in the High Country Independent Press on August 8 and 15, 2002; and in the Bozeman Daily Chronicle on August 11, 2002. Public comment in support of the amendment to the regulations: Jenny McCune, submitted Exhibit "A", testimony in writing; Susan McGrath; Nancy Proctor; Melissa Frost, on behalf of The Greater Yellowstone Coalition, submitted Exhibit "B", testimony in writing; Jennifer Read; Lila Bishop; Chris Bunting; Susan Killian; Gray Davidson, submitted Exhibit "C", testimony in writing which included names of other supporters; Clay Hall; Laura Heck; and Chuck Raches. Speaking on behalf of J. M. Huber was George Hampton a petroleum geologist and consultant. Mr. Hampton went into great detail with regard to his experience and the history of J. M. Huber as well as others who drilled wells for the purpose of exploration of coal bed methane and conventional oil and gas production in the Rocky Mountains. Mr. Hampton submitted two pictures showing what a typical conventional gas well looks like, labeled Exhibits "D" and "E". Further discussion took place with regards to other resources drilled for by J. M. Huber and the processes for monitoring the wells. In response to the question of why J. M. Huber did not include natural gas along with coal bed methane in the original application, Mr. Hampton explained that their principal target for drilling was coal bed methane and with all plays of any exploration they have secondary targets if possible. He added that they had in their plans when submitting the coal bed methane request to run a mud log, which would show where gas comes from when drilling. He added that the only thing they would know by drilling a conventional well for coal bed methane is the exact amount of gas in the well however, only a production well would tell them about productivity and permeability. Attorney Mike Wozniak representing J.M. Huber addressed the CUP regulations and the moratorium, noting from his point of view the regulatory scheme was a reasonable governmental regulatory idea. He presented reasons to the Commission however, with respect to the moratorium that they (J. M. Huber) did not feel was necessary with respect to conventional drilling. He also spoke regarding the potential emergency issue, and questioned if the Bozeman Pass area was the only place of concern with regard to the moratorium, and suggested condemnation of mineral interests in the area. At the request of J. M. Huber, Mr. Wozniak requested that the Commission not adopt the moratorium for conventional drilling because they did not believe at this point and time that there has been a separate emergency. He submitted Exhibit "F", the affidavit of Jack A. McCartney. Doug Ost of Malta spoke regarding gas wells in his neighborhood and the economic viability. He spoke against the moratorium and shutting out business in Montana. Gallatin County Attorney Marty Lambert responded to the testimony of Mr. Wozniak, noting a stark contrast to what was stated by Huber at earlier hearings. Mr. Lambert recommended that the Commission leave their options open and pass both the CUP and the moratorium. He stated that condemnation of mineral interests as suggested by Mr. Wozniak was not a viable option for the county. He summarized the affidavit by Dr. Thomas Power prepared for Gallatin County at the direction of the Commission, which

he was not permitted to introduce before the Board of Oil and Gas Conservation regarding the effects drilling would have on the economy and the market and taxable values of property. He stated that those costs would figure into his recommendations with regard to the fee set as part of the CUP process. He added that Gallatin County residents are paying for something that in fairness should be distributed among all the taxpayers in the state. As a reminder he noted that this was just a temporary process so they can study the potential effects that coal bed methane and gas drilling may have on residents of the Bozeman Pass Area. Ms. Madgic was astounded by Mr. Wozniak's notion that they would no longer have the problem if they took away the water. She stated that water was not the only issue. Among others, there were issues with infrastructure and wildlife as well. She reiterated that the moratorium was a temporary measure not into perpetuity. Commissioner Mitchell commented that this is the Treasure State and she was not against drilling or mining, along with noting that both the CUP and the moratorium are only temporary. She was in support of amending them both, as it would give time to evaluate the impacts and potential mitigations of this type of industry in Gallatin County. She added that Gallatin County has a lot of resources as part of the Treasure State, and this comes into conflict with the mountains, views, recreational opportunities and other businesses. She stated that the Commission has no control of leases for other resources, and she preferred that they cover all their bases. She reiterated her concern that they were using both the regulation and prohibition temporarily when one would have been adequate. She added that it puts a heavier burden on the citizens to get zoning districts and ordinances done in one year, leaving no other options. She believed that these amendments will cause a lot of valuable time to be spent coming to hearings when it could be better spent creating zoning districts. **Commissioner Vincent moved to adopt Resolution #2002-092. Seconded by Commissioner Mitchell.** Commissioner Vincent agreed that it would be wise to keep both options open. He had no problem with the expansion to other mineral as mentioned however, because of the issue at hand he believed they should take this step and look into it at a later time. He added that an emergency does exist, and it could be looked at in different ways. In regard to property values, he stated that wildlife and the unique nature of the area in the Bozeman Pass region, all contribute to discretion in regard to defining the nature of the emergency. He was in support of the both the moratorium and the CUP, noting distinct differences with eastern Montana as referred to during public testimony. Commissioner Murdock concurred, reiterating that there was an emergency until it is learned how these impacts would adversely or not adversely affect us, adding that it should be done up front before any exploratory wells. He suggested if those representing J. M. Huber really wanted to be responsible partners with Gallatin County and others that they might spend some time with county officials, interested parties, and neighbors to genuinely try to understand their concerns and possibly there could be a mitigatable way for coal bed methane drills and others to be in the area. **None voting nay. Motion carried. Commissioner Mitchell moved to approve Resolution #2002-093. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of establishing a fee for review of conditional use permits in the Bozeman Pass Interim Zoning Regulation. It was recommended by Gallatin County Attorney Marty Lambert that the fee be set at \$50,000, per permit to adequately cover costs associated with the review. The original fee was \$250, for this type of review. Ms. Madgic pointed out the considerable amount of work put into these reviews and noted with the increased fees they could rely on some expert background to help work through the permits. Further discussion took place regarding additional language that would include provisions for refunds should the entire amount not be needed. Mr. Lambert briefly outlined the affidavit of Dr. Thomas Power, a professor of Economics and Chair of the Economics Department at the University of Montana with regard to the time and costs associated with carrying out the economic analysis that would be required to estimate the potential economic damage that would be done by the oil and gas drilling and the appropriate financial security that would be required to protect threatened parties. He stated that at a minimum it would require six months of time and \$100,000 in costs, and a more appropriate and reliable analysis would take a year and cost \$250,000. Other costs associated were also discussed. Public comment: Tony Biel spoke in support of the fee however; he believed it would be beneficial to make it even higher. Mike Wozniak on behalf of J.M. Huber stated that obviously during the two-year moratorium and with this type of fee, that there would be no applications submitted. He stated that usually the fee for the permit has to be reasonably rated to the government services that are being rendered. Mr. Wozniak stated that the review fee seemed excessive, since they still have the right to look at sureties and other things for safeguard. Commissioner Mitchell believed some good points had been raised and given the moratorium; perhaps they should take some time to obtain a more detailed analysis so they could have a firm legal basis. Commissioner Murdock concurred, commenting that he did not want to confuse the conditions of approval and attached costs with the actual application. Further discussion took place with regards to specifics and gathering estimates in which to base the application fee. Mr. Wozniak assured the Commission that they would not submit an application if time was needed to review the fee proposal. The possibility of passing the recommended fee as submitted and

reconsidering it in two weeks was discussed. It was determined that it would be best to continue consideration of the fee until September 10, 2002. **No action taken.**

The Commission recessed for lunch

Gallatin County Planner Sean O’Callaghan reported on the public hearing and consideration of a request for change in conditions of preliminary plat approval for River Rock Major Subdivision-The Villas, located in the SE ¼ and SW ¼ of Section 3, T1S, R4E, PMM, Gallatin County, Montana; generally located north of Amsterdam Road, approximately two miles west of Belgrade. Preliminary plat approval was granted May 14, 2002. Notice was published in the High Country Independent Press on August 1 and 15, 2002. Certified letters were mailed to adjacent property owners, and as of August 26, 2002, there were 122 comments (121 were in the format of a form letter) received by the Planning Department, which were opposed to the change to conditions. The applicant requested striking condition #14 in its entirety or to modify it to allow the platting of lots within the Villas. The modification concerns condition #14 as stated in the County Commission Findings of Fact(s): Applicant shall improve Amsterdam Road, the primary access road to the subdivision, to County standards, or a rural improvement district shall be established to accomplish such improvements prior to final plat approval. The modification was requested under Section 13.G of the Subdivision Regulations that addresses changes to conditions after approval as follows: Upon written request of the subdivider, the Commission may amend conditions of preliminary plat approval where it can be found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. Mr. O’Callaghan read the letter from Potter Clinton requesting the modification, which referred to the Amsterdam RID. In summary, the letter stated that initially when they requested consideration of the resolution to create the District, it was their intention to have the RID be funded wholly by the River Rock project, and the Commission thought it better to involve additional properties in an attempt to more equally spread the costs of these improvements. While the RID has been going through its evolution, they have continued to develop River Rock and are now near completion of the Villas portion of the project. Therefore, they requested that condition #14 either be deleted in its entirety or modified in some way to allow the platting of the River Rock Villas Subdivision. It was their position that if the RID ultimately fails to be formed that they would still be responsible to make certain that Amsterdam Road gets improved via the preliminary plat approvals that are in place for the River Rock Traditions and River Rock North subdivisions. Both of those areas will not be platted until next year and the outcome of the RID process will be known by then. Mr. O’Callaghan noted that the condition is presently written to provide assurance that necessary improvements to Amsterdam Road, the primary access road to the River Rock development, are accomplished. Typically, applicants are required to make necessary improvements to a primary access road prior to final plat approval of the subdivision, or are required to bond such improvements in accordance with the bonding requirements of the Gallatin County Subdivision Regulations. Mr. O’Callaghan submitted an additional form letter, labeled Exhibit “A”, and summarized the written comments. Gallatin County Planning Director Jennifer Madgic outlined the historical background of the River Rock projects, noting condition #14, is a standard condition. At the onset of the River Rock projects this was not a standard condition because MDOT at that time had jurisdiction over Amsterdam Road. However, the County now has maintenance jurisdiction over the road and the condition was changed last spring with the platting of the Villas, Traditions and River Rock North. The County Commission has one determination to make with this application: 1. A determination as to whether or not to approve the proposed change of condition. The Commission may change conditions where it is found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. If the Commission decides to approve the condition modification, condition #14 in the County Commission Findings of Fact(s) shall be eliminated as a condition of approval for the River Rock Major Subdivision-Villas, or modified as appropriate. Developer Mike Potter spoke regarding the history of the River Rock projects, noting from the inception it was their understanding that Amsterdam Road would be upgraded by an RID, at such time the traffic loading warranted it. Prior and recent traffic studies both projected that in 2003 it would be reasonable to begin making those upgrades. He added that the road systems in the vicinity are running at a fairly high level of service, which is being created, by the whole area. He assured the Commission that they were not trying to get away from their responsibility with Amsterdam Road however, they are trying to phase this project in because all the improvements have gone in and they had builders that needed to get building homes in that area. Public comment in opposition: Melanie Hathaway; James Collins; Michele Corriel; Sonia Berg; Donald Kristensen; Stan Young and Lawrence Prince (signed up to speak, not available); and Bill Trawick. Mr. Potter pointed out that the request was only for 39 lots, and either way they acknowledged that they would not come in with final plats of the last 25 percent of the project until the RID is resolved. He believed the change of condition was created by the change to the approach of the RID. He added the level of impact fees generated by the River Rock project would total \$1,050,000, and approximately half has already been generated and paid to the County. The total impact fee for Landmark will be \$400,000. In looking at the latest draft RID, he noted that River Rock will pay 51

percent of the share of the broad based assessment and Landmark will pay 14 percent. Further discussion took place with regard to finding that errors or changes beyond the control of the subdivider have rendered this condition unnecessary, impossible or illegal. Commissioner Mitchell stated that they would not have imposed the condition if it was unnecessary, and she could not find the condition impossible as it was pointed out that there were a variety of options, and it did not meet the criteria for illegal because it was in the Subdivision Regulations and the developer agreed to it. Further discussion took place with regards to prorating the amount as the developer comes in with each phase. Commissioner Murdock asked Mr. Potter to consider if they would pay all their impact fees for future phases up front. Commissioner Murdock stated that he was not in favor of changing the condition because he believed the RID would go through. Commissioner Vincent agreed with Commissioner Mitchell, and believed that even a liberal reading of Section 13.G, did not allow for the change. He believed if they applied unnecessary, impossible or illegal, given that there are options and alternatives, they would open the door for others. **Commissioner Mitchell moved to deny the condition modification requested by Potter Development to River Rock Major Subdivision to modify a condition of preliminary plat approval pertaining to improvements to Amsterdam Road, finding that it does not meet unnecessary, impossible or illegal criteria. Seconded by Commissioner Vincent. Commissioner Mitchell clarified that it was condition #14. None voting nay. Motion carried.**

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Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a zone map amendment on behalf of Gaston Engineering for Gay D., Sandra, James and Michael Kravik, and Marie Elyse Kravik Fulton and James Banks in the Gallatin County/Bozeman Area Zoning District. The change would affect 240 acres (in two separate parcels) located northeast of the intersection of Fowler Lane and Patterson Road, approximately one-quarter mile west of South 19th. Applicants propose to change the zoning from Agricultural-Suburban (A-S) to Residential-Suburban Country Estates (R-S). The A-S District generally establishes a minimum lot size of 20 acres (with options for clustering and density bonuses). Pointing out that this is an area of transition, Ms. Madgic noted a zone change to the south, which is the Lazy TH Subdivision. This parcel has a Master Plan designation of Suburban Residential, which permits the subdivision of land at a variety of densities while insuring an overall density and configuration of development that will accommodate the extension of urban services at an affordable cost to each dwelling unit. It was noted that in R-S, there is no set density allowed and density in newly established R-S Districts is determined through the Planned Unit Development process. Notice was published in the High Country Independent Press on July 18 and 25, 2002; certified notice was mailed to adjacent property owners within 200 feet; and notice was posted. The Planning Department received a number of letters from neighbors expressing concern for the proposed zone change, and a petition signed by approximately 70 individuals opposed to the proposal. Letters were received from the following: Amsden; Camper; Cook; Nichols; (2) Keene; Seifert; Lindvig; Bushena; O'Neill; Gavin; and Dowling. Planning Board held a hearing on the project August 13, 2002, voting 4:3 to recommend that the Commission deny the amendment. In reviewing the zone map amendment request, the Commission should consider the following: Relationship/compliance with adopted plans; Consistency with the intent and purpose of the zoning regulations; Relationship with prevailing uses in the area; Compliance with statutory requirements of Section 76-2-203 MCA; and whether or not the requested zoning designation benefits a small area and only one or a few landowners. In reviewing the zone map amendment request, the Commission shall consider the following criteria: 1. Is the requested zoning designation compatible with adopted County Plans? 2. Is the requested zoning designation consistent with the intent and purpose of the zoning regulations and the requested new zoning classification? 3. Is the requested zoning designation compatible with adjacent land uses and zoning classifications? 4. Does the requested zoning designation comply with the statutory review requirements of Section 76-2-203 MCA? 5. Does the requested zoning designation benefit a small area and only one or a few landowners, or does the requested zoning designation benefit the surrounding neighborhood, community and the general public? If the Gallatin County Commission, after hearing and considering all public testimony, determines that the zone map amendment request meets the criteria of Section 55 of the Zoning Regulations, a Resolution approving the zone map amendment shall be prepared. In addition, the following condition is suggested: 1. The zone map amendment shall be completed upon submittal of the \$100 mapping fee to the Gallatin County Planning Department for update of the Official Zoning Map. Dennis Foreman the applicant's representative outlined the property boundaries and briefly summarized the proposed zone change, stating the reason they wanted to go with R-S was to go with the higher density and make it more economical to go with a central sewer system and possibly a central water system. Public comment in opposition: John Amsden; Linda Keene; Don Seifert; Anne Camper; Maire O'Neill; Joan Cook; David Buschena; Harold Lindvig, submitted Exhibit "A", 1st page of staff report with the canal and ditches drawn in, and Exhibit "B", letter from the Gallatin County Road and Bridge Department; and Henry Dowling. Concerns expressed were that the zone change did not meet the Master Plan goals or the Gallatin County Plan goals; loss of agricultural

atmosphere; water quality; high ground water; wildlife; traffic; ditches; and paved rural roads. In response to public testimony regarding drain fields, Mr. Foreman commented that there are other means of disposing central sewer systems, and they are exploring those ideas. Noting that this area is primarily agricultural, Commissioner Mitchell stated it was too far out to be a natural progression of growth from Bozeman. She did not see a benefit in changing the zoning at this time, and stated that she would add the public testimony in as part of the findings. She added that in an area of high ground water, the 20 acre lots are more conducive, and she did not believe they were ready for density in this area. Commissioner Vincent concurred, adding that zone changes deserve the highest possible scrutiny, as they are one of the very few guideposts people have for making plans. He added that there needs to be a compelling and immediate need in order to justify the change. Commissioner Murdock mostly agreed with the Commission, but fundamentally he had a different take. He noted that this was within 4 miles of Bozeman and he did not see farming as necessarily a viable option much longer in that area. He believed infill in this area should be encouraged and that R-S zoning under a PUD might show less density than the current 20-acre tracts, based on the criteria. **Commissioner Mitchell moved to deny the Kravik/Bank zone change in the Gallatin County Bozeman Area Zoning District from the existing A-S to the proposed R-S zoning, finding it does not meet the criteria that they are to establish, and the fact that it is not consistent with prevailing uses in the area and density is not going to be in the best interest of the land or the existing uses; urban services would be needed, given the high groundwater; it does not meet the statutory requirements of Section 76-2-203 MCA; and it will only benefit a few landowners rather than the general public. Seconded by Commissioner Vincent agreeing that this area is close to Bozeman. However, he did not believe it was close enough, adding that as far as agriculture goes, it is as viable as they help make it. Commissioners Mitchell and Vincent voting aye. Commissioner Murdock voting nay. Motion carried.**

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Gallatin County Planner Director Jennifer Madgic reported on the public hearing and consideration of a zone map amendment on behalf of Gaston Engineering for the Department of Natural Resources and Conservation in the Gallatin County/Bozeman Area Zoning District. The change would affect five acres located north of Interstate 90, and north of Baxter Lane. The applicant proposes to change the zoning from Agricultural-Suburban (A-S) to Light Manufacturing (M-1), for the purpose of establishing a five-acre parcel (the Mandevilles' home is located on the proposed five-acre parcel) to trade with the State of Montana. The A-S District generally establishes a minimum lot size of 20 acres and would not allow the creation of a five-acre parcel. The Mandevilles have no desire to change the use of the property at this time. The M-1 designation was chosen based on the future Master Plan designation of property (Business Park Industrial), and the option within the M-1 District to create the desired five-acre parcel. The applicant provided a letter from the City of Bozeman (3/7/02) declining annexation at this time. The Gallatin County Planning Board held a public hearing August 14, 2002, voting unanimously (7:0) to recommend approval. Notice was published in the High Country Independent Press on July 18 and 25, 2002; certified notice was mailed to adjacent property owners within 200 feet; and notice was posted. The Planning Department received no comment. In reviewing the zone map amendment request, the Commission should consider the following: Relationship/compliance with adopted plans; Consistency with the intent and purpose of the zoning regulations; Relationship with prevailing uses in the area; Compliance with statutory requirements of Section 76-2-203 MCA; and whether or not the requested zoning designation benefits a small area and only one or a few landowners. In reviewing the zone map amendment request, the Commission shall consider the following criteria: 1. Is the requested zoning designation compatible with adopted County Plans? 2. Is the requested zoning designation consistent with the intent and purpose of the zoning regulations and the requested new zoning classification? 3. Is the requested zoning designation compatible with adjacent land uses and zoning classifications? 4. Does the requested zoning designation comply with the statutory review requirements of Section 76-2-203 MCA? 5. Does the requested zoning designation benefit a small area and only one or a few landowners, or does the requested zoning designation benefit the surrounding neighborhood, community and the general public? If the Gallatin County Commission, after hearing and considering all public testimony, determines that the zone map amendment request meets the criteria of Section 55 of the Zoning Regulations, a Resolution approving the zone map amendment shall be prepared. In addition, the following condition is suggested: 1. The zone map amendment shall be completed upon submittal of the \$100 mapping fee to the Gallatin County Planning Department for update of the Official Zoning Map. There was no public comment. **Commissioner Vincent moved to grant the DNRC zone change in the Gallatin County/Bozeman Area Zoning District, finding that it is in compliance with adopted plans; it is consistent with the intent and purpose of zoning regulations; it is consistent with relationship with prevailing uses in the area; it meets the compliance with statutory requirements of Section 76-2-2 MCA, and it generally benefits the general public. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 3:52 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 3rd DAY OF SEPTEMBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:09 A.M., at the Manhattan High School Activity Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

AUGUST 26, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, and Assistant Glenda Howze. (Commissioner Mitchell joined the meeting after item number six.) The Commissioners considered approval of a request to charge tipping fees at the Gallatin County Landfill at Logan. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval a request for a budget transfer for the Road and Bridge Department. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an asset disposal request for a laptop computer from the Detention Center. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request to remove various items from the Rest Home inventory – to be disposed of, as they are unable to be repaired. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of Commissioner Mitchell's attendance at the RMAF Conference and the financing thereof. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an invoice to pay Donna Morgan for her hours spent on behalf of the Detention Center Project Team. Commissioner Vincent made a motion to approve said payment. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Commissioner Mitchell joined the meeting at this point.

The Commissioners discussed the Amsterdam Road RID. Concerns have been brought up regarding the use, or lack there of, of the \$500,000 impact fees that have been collected. This discussion will be a continuing item until it is resolved.

The Commissioners discussed the Call for Proposals for the Jail Population Analysis and Criminal Justice System Assessment. Commissioners Murdock and Mitchell agreed that number four, "In consultation with builders, architects, planners, and criminal justice construction consultants, to suggest an approximate cost and the location of the new detention facility.", should not be included in the assessment initially. Commissioner Mitchell made a motion that the call for proposal should include the title "Scope of Work", the same as referenced in the document, and number four under the jail analysis should be removed. Also noted in the motion was a request that a letter would be drafted to Judge Salvagni as the subcommittee chair, requesting that the task force prepare a final draft for review and approval based on the requested changes, and asking that the Commission be included in the interview process and selection. Commissioner Vincent seconded the motion. In discussion, Commissioner Vincent stated that he would voted against the motion as he believes that number four should be included in the proposal. Commissioner Murdock stated that given the recent jail vote, he can't agree and would not revisit the jail site issue at this time. Commissioner Mitchell stated that she wants the opportunity to review the draft again before it goes out in final format. Commissioners Murdock and Mitchell voted aye. Commissioner Vincent voted nay. Motion carried with a vote of two to one.

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The Commissioners considered an invoice from Prugh and Lenon for services on the Detention Center issue. Commissioner Murdock made a motion to approve said invoice. Commissioner Vincent seconded the motion. In discussion, Commissioner Mitchell stated that she would not support the motion, as she does not believe that they have provided any new information or support. Commissioners Vincent and Murdock voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

The Commissioners considered a change order for Phase III, IV construction, to pay for new windows for those that previously housed air conditioning units. Commissioner Murdock made a motion to approve said change order. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

AUGUST 27, 2002

- The Commissioners conducted regular County business.

AUGUST 28, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell, Auditor Joyce Schmidt, Treasurer Anna Rosenberry, Accounting Clerk Renee Huyser, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. The Commissioners considered approval of claims listed on the voucher list dated August 26, 2002, including check numbers 8013486-8013617; totaling \$376,382.83. Commissioner Mitchell made a motion to approve said claims. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of tax refunds to Skywest and Meseba Companies. Ms. Rosenberry explained that they are subject to a tax for flying into Montana. They are protesting the tax that it is not actual. The Commissioners can require that it be paid or investigate further. The Commission agreed to discuss the matter further with Chief Deputy County Attorney Chris Gray before making a decision.

The remaining agenda items were continued until the following office meeting.

AUGUST 29-30, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated August 28, 2002, in the amount of \$67,749.50.
2. Consideration of Contract(s): Montana Dept. of Commerce for CDBG Technical Assist. Funding for Development of Economic Development Strategy (CEDs); Montana Dept. of Commerce for FY 2002-2003 Small Business Innovation Research (SBIR) Program Administration; and Change Order #2 to Contract #2002-097, Ingram-Clevenger/Phase III, IV Construction
3. Approval of Application for Cancellation of Taxes for the following Property: Parcel numbers: MMM97, MMM1132, MMM467, MMM1380, MMM1628, PPP6338, PPP9995, PPP13712, MMM5396, PPP17387, PPP17951, PPP18038, PPP4484, and PPP17365; totaling \$2,649.04.
4. Continuation of a Request for Family Transfer for Milton and Kyleen Segmiller, located in the SW ¼, of Section 26, T1S, R4E. (655 West Hulbert Road). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda, noting that consent agenda Item #4 was being continued until September 10, 2002. There was no public comment. Commissioner Mitchell requested that the contract for Montana Dept. of Commerce for CDBG Technical Assist. Funding for Development of Economic Development Strategy (CEDs) be placed on the regular agenda for further discussion. Although consent agenda Item #4 was continued, Commissioner Murdock noted that it was placed on the consent agenda in error and should have been on the regular agenda. **Commissioner Mitchell moved to approve the consent agenda, as modified. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the Montana Dept. of Commerce for CDBG Technical Assist. Funding for Development of Economic Development Strategy (CEDs) contract. Mr. Watson explained that the total contract would be \$20,000, and it had not yet been

determined who would do what portion of the work. Satisfied with the explanation, **Commissioner Mitchell moved approval of the contract. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County RID Attorney Susan Swimley reported on the continuation of award of construction bids for Canary Road RID #382. In a brief update, Ms. Swimley noted that two weeks ago the engineer reported all the bids were over budget. She reported last week, that with the help of Chief Civil Deputy County Attorney Chris Gray they were trying to negotiate with lowest responsible bidder to make modifications that would be within the budget for the sale of the bonds. They are now awaiting signatures of that contract therefore, she requested that the Commission continue award of the construction bids until September 10, 2002. In order to meet the deadlines for publication and to do the improvements this year, she informed the Commission of a five minute meeting scheduled for September 4, 2002, at 9:30 A.M., to consider the resolution calling for the sale of the bonds for Canary Lane. If they do not get all the contracts and signatures on the construction bids, they will not sell the bonds or award the bids. She reiterated that initially it was her recommendation to turn down all of the construction bids. **No action taken.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the bid recommendation for road improvements for Jackson Creek Road. Noting that all the bid documents were in order, Mr. Provance recommended awarding the bid to JTL Group, the lowest responsible bidder in the amount of \$121,920.20. He stated that they would not process the notice to proceed until they collect the cost share funds in the amount of \$30,147 from the Jackson Creek homeowners. There was no public comment. **Commissioner Mitchell moved to award the bid to JTL Group on the road improvements for Jackson Creek Road in the amount of \$121,920.20, contingent upon the county's receipt of the resident's portion of the cost share. Seconded by Commissioner Vincent. Commissioner Murdock noted that the notice to proceed would be withheld until such time. None voting nay. Motion carried.**

Gallatin County Attorney Marty Lambert reported on the receipt of construction bids for Hyalite Meadows RID #383. Mr. Lambert explained that unless they received an acceptable bid lower than \$200,200 they would be in same situation as the Canary Lane RID. He requested that once the bids were opened by project engineer Rick Kerin of Kerin and Associates that the Commission recess so they could review the bids. The following three bids were received: TMC, Inc., P.O. Box 69, Belgrade, base bid \$124,816.71; Omdahl Excavation & Utilites, Inc., 3250 Linney Road, Bozeman, base bid \$140,372.30; and JTL Group, Inc., P.O. Box 9, Belgrade, base bid \$133,607.00. Mr. Kerin noted that each bid contained a bid bond in the amount of 10 percent. In order for Mr. Kerin to review the bids, the Commission took a brief recess.

Project engineer Rick Kerin on behalf of Kerin and Associates reported on the award of construction bids for Hyalite Meadows RID #383. Mr. Kerin noted that the apparent lowest responsible bidder was TMC, Inc., and recommended awarding them the bid for the total base bid amount of \$124,816.71. He stated that he would also choose from some of the bid alternates that were included. **Commissioner Mitchell moved to follow the engineer's recommendation and award TMC, Inc. the bid award in the amount of \$124,816.71 for Hyalite Meadows RID #383, noting alternate items will be awarded to them later. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Attorney Marty Lambert reported on consideration of a resolution awarding the sale of bonds for Hyalite Meadows RID #383. (Wording of the agenda item was incorrect, noting a resolution calling for the sale of bonds). Mr. Lambert noted that the Gallatin County Clerk and Recorder received one bid to purchase the bonds on August 30, 2002, from D.A. Davidson, which included a bid bond in the amount of \$4,004.00, and bidding \$195,195. Having made a motion and accepting the award of the (construction) bids, Mr. Lambert requested that the Commission pass the resolution. **Noting the advice and testimony of the County Attorney, Commissioner Vincent moved to approve Resolution #RID-02-383D, Calling for the sale of bonds for Hyalite Meadows RID \$383. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 9:45 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 10th DAY OF SEPTEMBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:10 A.M., at the Fairgrounds Building #4. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

SEPTEMBER 2, 2002

- The Commissioners attended a special meeting for the purpose of considering approval of RID Resolution 02-382-C. In attendance were Commissioners Murdock, Mitchell and Vincent and Attorney Susan Swimley. Commissioner Vincent made a motion to approve RID Resolution 02-382-C. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

SEPTEMBER 3, 2002

- The Commissioners conducted regular County business.

SEPTEMBER 4, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Treasurer Anna Rosenberry, Grants Administrator Larry Watson, Planning Director Jennifer Madgic, Road Superintendent Lee Provance, Road Department Staff Engineer George Durkin, Environmental Health Director Tim Roark, and Commission staff Rose Blaskovich and Glenda Howze. The Commissioners discussed the Amsterdam Road RID situation. Discussion involved the following: use of impact fees, boundaries, state taking of the road, number of assessment for residential lots, stop lights and turn lanes, RID attorney, and commercial designation. No decisions were made at this time.

The Commissioners and meeting attendees discussed the Four Corners Water and Sewer District. It was noted that the first charge of the board was to address the sewer and water needs. A petition has been submitted to create a district, and discussion took place as to whether it would be fair and advisable to hold up the petitioners while the board coordinates and works on this matter. Mr. Watson expressed concerns that the developers want to control their developments and their proposed system may or may not be able to be attached to by others in the future.

Potter/Clinton/Zoot have agreed to contribute money towards an engineering study, hopefully with the use of additional grant funds. Discussion took place as to under what auspices the petition could be denied. Mr. Watson suggested that due to the CEDS contract with Gallatin Development Corporation and a desire to get EDA monies to do a larger project, a denial could be based on this. It was suggested that Mona Jamison may be able to review the petition and offer legal advise on this matter.

The Commissioners considered the budget request/contract from Bozeman Shelter Care. Commissioner Vincent made a motion to ask that the contract be worked out between Grants Administrator Larry Watson, Chief Deputy County Attorney Chris Gray, and Bozeman Shelter Care. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the findings of fact, order and authorization to transfer funds in the matter of the application for FOR Parks, Inc. for a request for 2.3 million dollars for the open space fund. This findings document is in relation to the decision made on July 16, 2002. Before transferring funds, five contingencies must be met, and no funds will be transferred until this is done. Commissioner Vincent made a motion to sign said findings of fact and order; and authorization to transfer funds. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

SEPTEMBER 5-6, 2002

- The Commissioners conducted regular County business.

- Landfill Revenue for August 2002: \$43,386.12.
- Payroll for August 2002: \$1,183,521.02.
- Clerk & Recorder's Fees Collected for August 2002: \$84,656.55.
- Application for Cancellation of Taxes for August 2002: \$635.94.
- New Hire Report for August 2002: Elmer Baldrige, Ronald Jeter, Edward Peterson, Maria Tande Lamb, Terry West
- Terminated Employees' Report for August 2002: Jeffrey Bragg, Heather Chavez, Adam Brigsby, Bart Hawkins, Joanne Lee, Rose Malisani, Mary Robbins, Raul Ruiz Jr., Stacey Scott, Jophiel Silverstrone, Donna Warner

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated September 5, 2002, in the amount of \$516,318.07.
2. Approval of Application for Cancellation of Taxes for Parcel Numbers: PPP10293, MMM1161, and MMM3104; totaling \$396.02.
3. Request for Relocation of Common Boundary Lines Exemption for Westland Enterprises, Inc., TM Land Partners, LP, and Gallatin Peaks Land & Development, LLC located in parts of Sections 1 & 2, T7S, R3E and the S ½ of Section 36, T6S, R3E. (South & East of Ousel Falls Road, Big Sky). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundary Lines Exemption for a group of Meadow Village Property Owners, located in the E ½ of Section 36, T6S, R4E, and the SW ¼ of Section 31, T6S, R4E. (Meadow Village, Big Sky). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. Commissioner Mitchell moved to approve the consent agenda, as read. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Commissioner Murdock introduced two Bozeman High School exchange students from Germany and presented them each with a Gallatin County pin.

Roger Curtiss former Gallatin County Drug counselor and currently President of NAADAC presented and read the proclamation declaring September 25, 2002, "National Addictions Counselor Day" to honor addiction counselors. Counselors in attendance were applauded and thanked for their dedication and fine work. **Commissioner Vincent moved to adopt the proclamation on behalf of the citizens of Gallatin County to recognize "National Addictions Counselor Day", in Gallatin County on September 25, 2002. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County RID Attorney Susan Swimley requested that the Commission continue award of the construction bids for Canary Road RID #382, until September 17, 2002, in order to complete the contracts. She stated that they were currently advertising the bonds. **No action taken.**

Gallatin County RID Attorney Susan Swimley reported on the public hearing and consideration of use of road impact fees for Amsterdam Road improvements. For the following reasons, Ms. Swimley requested that this consideration be continued. In summary, a decision was made by the Commission to consider expending road impact fees if the Amsterdam RID is created. In order to expend the impact fees the Commission has to understand which subdivisions paid impact fees and the location, and then make a decision that the subdivision has a rational and reasonable nexus to the proposed road improvements. Ms. Swimley thanked those who were instrumental in gathering the needed information for the Commission to consider, noting that this was too much information to present to the Commission in this format and that they needed time to review it. Additionally, she pointed out that in 1996 or 1997

the County created an Impact Fee Administrative Committee of which she was appointed. She did not remember what the duties were of that committee however; if the duties included an expenditure process then the Commission would need to have that committee involved. In order to fully understand the options for expending impact fees, the Commission will need to meet with either the Road Department or with the committee. Because of some scheduling constraints and time needed for the Commission to review the information, Ms. Swimley requested that this be continued at least until after October 8, 2002, noting the Commission will not consider creating the Amsterdam RID until after studying the impact fee issue. The Commission was in agreement to the continuance. **No action taken.**

Gallatin County RID Attorney Susan Swimley reported on the public hearing and consideration of a resolution of intention to create Lake RID #384. Ms. Swimley noted a typo in the findings document in the second from the last line; it should read #384, rather than #383. Steve Rude on behalf of Gaston Engineering made the following findings: The estimated market value of the property in the district is increased by more than the special assessment; The diversity of ownership of the property is diverse finding that in that one instance 2 lots, parcels, or tracts are held by one owner. The remaining lots, parcels, or tracts are held in separate ownership; There are 3 categories of special assessments due in this district: Gallatin Conservation District, Gallatin County Water Quality District and Open Space District: There area 0 backed bonds or levies of record against property in this district: The following delinquencies exist in the District: There is delinquent property taxes, one lot, parcel or tract is delinquent in the amount of \$640.00; There are 23 lots, parcels or tracts in this district. The total land value before improvement is \$3,011,240 and the estimated property value after the improvements is \$3,181,233. The delinquencies do not raise an issue of concern for the Commission regarding this Rural Improvement District; The public will receive benefit of improved road surface, better access, improved storm drainage and reduced yearly maintenance; and this is not a newly platted subdivision. The subdivision was platted in 1966 and amended in 1968, 1985, 1994, 1996 and 1998. There was no public comment. **Based on the findings provided by the engineer and legal counsel that the formation of the RID is in the public interest and best serves the interest of the county and the district, Commissioner Mitchell moved to pledge the revolving fund to secure this rural improvement district. Seconded by Commissioner Vincent. None voting nay. Motion carried. Finding this rural improvement district serves the public interest and convenience, Commissioner Mitchell moved to adopt Resolution of Intent #RID-02-384. Seconded by Commissioner Vincent. Commissioner Mitchell amended the motion to include the resolution number as #RID-02-384-A. Commissioner Vincent amended the second. None voting nay. Motion carried. The hearing date is scheduled for October 1, 2002, at the Big Sky Fire Hall.**

Dave Fowler, on behalf of the Gallatin County Road and Bridge Department reported on the bid recommendation for West Yellowstone Area Snowplowing. Mr. Fowler recommended accepting the bid from Targhee Redi-Mix, a three-year bid: 2002-03-\$12,724; 2003-04- \$13,842; and 2004-05-\$14,950. There was no public comment. **Commissioner Vincent moved to approve the bid from Targhee Redi-Mix on the recommendation of Mr. Fowler, a three-year bid as follows: 2002-03-\$12,724; 2003-04- \$13,842; and 2004-05-\$14,950. Seconded by Commissioner Mitchell, noting this was for the West Yellowstone area. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a request for a family transfer for Alvin and Eloise Klompjen located in the SW ¼ of Section 10, T1S, R3E. (8129 Amsterdam Road, Manhattan, Montana). Mr. O'Callaghan summarized the proposal, noting that it appeared to be a proper use of the exemption. David Klompjen with Power of Attorney for Alvin Klompjen was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Vincent moved to approve the Klompjen family transfer exemption, finding it meets the criteria for the exemption to Subdivision Regulations allowed under the Montana Subdivision and Platting Act 76-3-201 through 76-3-210. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported the continuation of a public hearing and consideration of a request for a family transfer for Milton and Kyleen Segmiller located in the SW ¼ of

Section 26, T1S, R4E. (655 West Hulbert Road). Based on information submitted, Mr. Karp stated that this appeared to be a correct use of the exemption. Milton and Kyleen Segmiller were sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Based on answers given by the Segmillers under oath, Commissioner Mitchell moved to approve the family transfer exemption request, finding their answers meet the Subdivision Regulations allowed under the Montana Subdivision and Platting Act. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Chief Deputy Clerk and Recorder Eric Semerad reported on the public hearing and consideration of a resolution to annex property into the Bridger Canyon Rural Fire District. There were no protests received. Public comment: Sonya Berg spoke regarding the history of the property. Her concern was the lack of a second access to the property and she suggested that the Commission impose a stipulation to make an effort to put in a secondary access. Assistant Chief of the Belgrade Rural Fire District Brian Connelley highly recommended having two ways out however, because of the steep grades, mountainous terrain and rivers, there are times they have to make exceptions. He noted the importance for people in mountainous areas to provide some type of safety zone. Commissioner Murdock noted that there was nothing in the checklist for fire district annexations addressing this issue, and added that the trustees did consider the petition July 9, 2002, giving their approval. While the testimony given was pertinent to public health and safety, Commissioner Mitchell stated that this was not the proper process to consider those issues. **It was reiterated that they did receive a letter from the fire district accepting the annexation therefore, given all the information received to date and the lack of protests, Commissioner Mitchell moved to approve Resolution #2002-94. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Continuation of a public hearing and consideration of establishing a fee for review of Conditional Use Permits in the Bozeman Pass Interim Zoning Regulation was continued until October 8, 2002. **No action taken.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and request for a reduction of road impact fees on behalf of Morrison-Maierle for the Spanish Peaks Estates, Phase 1 Major Subdivision. Preliminary plat approval was granted August 24, 1999. Phase 1 includes 30 single-family lots. Based on previous independent fee calculation studies for residential subdivisions in the Big Sky area, the Gallatin County Road and Bridge Department established a standard road impact fee of \$73.00 per lot for Big Sky area subdivisions. If the Commission determines that the independent road impact fee calculation for the Spanish Peaks Estates Phase 1 Major Subdivision meets the requirements of the Gallatin County Road Impact Fee Regulation, a road impact fee of \$73.00 per lot shall be submitted with the final plat application. There was no public comment. **Commissioner Vincent moved to grant the request for a reduction of road impact fees for the Spanish Peaks Estates, Phase 1 Major Subdivision. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic introduced planners Victoria Drummond and Chris Scott as Gallatin County's newest members of the Planning Department.

Gallatin County Planning Director Jennifer Madgic reported on the consideration of a resolution regarding the zone map amendment for the Department of Natural Resources and Conservation in the Gallatin County/Bozeman Area Zoning District. **Commissioner Mitchell moved to approve Resolution #2002-095. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the consideration for a variance for Duchenc/Sirles in the Trail Creek Planning and Zoning District. **Commissioner Vincent moved to adopt Resolution #2002-096. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of final plat approval for the Kountz Subdivision. Preliminary plat approval was granted August 7, 2001. The proposal creates a 5.835-parcel for lease purposes (BFI Waste Systems). Ms. Madgic stated that it appeared all the conditions have been met. There was no public comment. **Commissioner Mitchell moved to approve final plat for the Kountz lease parcel BFI, finding it has met all the conditions according to Planning Staff, and seeing no public protests. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution of road name changes in Gallatin County (Marty's Way to Eagles Nest Drive). This was a resident initiated petition and met the requirements for a name change. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-097. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution of road name changes in Gallatin County (Kleinschmidt Court to Grassy Flats). This was a resident initiated petition and met the requirements for a name change. There was no public comment. **Commissioner Mitchell moved to adopt Resolution #2002-098. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution of road name changes in Gallatin County (Unnamed Road to Storrs Road). This was prompted by the fact it went over the number of homes allowed on a shared driveway. There was no public comment. **Commissioner Mitchell moved to adopt Resolution #2002-099. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution of road name changes in Gallatin County (Unnamed Road to Meadow Creek Road). This was prompted by the fact it went over the number of homes allowed on a shared driveway. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-100. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for preliminary plat approval on behalf of Allen and Associates for the Laszloffy Minor Subdivision for a two lot minor subdivision on 20.6 acres. It is located east of Belgrade just off Airport Road at 4285 Nelson Road. The property is described as Tract 3 of COS 1659, located in the NW ¼ of Section 9, T1S, R5E, PMM, Gallatin County, Montana. The subdivision will be served by Nelson Road an existing public road. Nelson Road is paved from Airport Road to the North boundary of the property. The applicant requested a variance from paving Nelson Road along the length of the subdivision noting that the subdivision will not provide significant additional impact due to an existing residence and business (The Tree Factory) on the site. In the past, this variance has been granted for two lot minor subdivisions with 1 additional lot. The Belgrade City-County Planning Board voted at their August 26, 2002, public meeting to recommend the variance and preliminary plat approval of the subdivision, subject to the conditions. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with highlighting the suggested conditions. The Gallatin County Commission needs to make the following determinations: A determination as to whether or not to approve the requested variance from additional paving of Nelson Road; and a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The

following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. The owners shall obtain flood plain development permits from the Gallatin County Flood Plain Coordinator for any development in the Buster Gulch Creek Flood Plain. e. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer must obtain an encroachment permits from the Gallatin County Road Department for any new driveways to Nelson Road. 11. The developer shall provide one of the following standards to ensure a reasonable level of fire protection and life-safety to the public and firefighters. The following requirements must meet the specifications of Gallatin County Subdivision Regulations Section 6-E-5 and be reviewed and approved by the Belgrade Rural Fire District. The subdivider shall obtain written verification from the Belgrade Rural Fire District that one of the following requirements has been met. a. A single 10,000 gallon water supply for each home and associated structure meeting the requirements of Section 6-E-5(a). b. A single 20,000-gallon water supply meeting the requirements of Section 6-E-5 (b). c. A rural fill site meeting the requirements of Section 6-E-5(c). d. R-3 occupancies as defined by the Uniform Fire Code may be protected by automatic fire sprinkler systems meeting the requirements of NFPA 13D. If the sprinkler options is used the covenants must include the following provisions. 1. Automatic fire sprinkler systems shall be installed in all structures, which are used for living and home business which people normally occupy. The fire sprinkler system must meet the requirements of NFPA 13D. 2. A stamped set of engineered sprinkler system plans and covenants requiring the installation of sprinklers shall be submitted to the Belgrade Rural Fire District for review and be approved prior to construction, and the sprinkler system must be inspected by the Belgrade Rural Fire Department during construction and at completion as required by the Belgrade Fire Chief. e. A pressurized fire hydrant system meeting the requirements of Section 6-E-5 (e). 30 feet of Nelson Road west of the centerline shall be dedicated to the public on the final plat along the entire length of the subdivision. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Surveyor Ron Allen representing the applicant explained the reason for this proposal was to separate the applicant's residence from their business in the event they sell the business. He pointed out that they designated a building envelope in an attempt to protect the view shed of the neighborhood. There was no public comment. Individuals from both the Gallatin County Road Department and the Fire Department acknowledged they were satisfied and had no concerns with the proposal. **Commissioner Vincent moved to approve the request for the variance addressing the paving of Nelson Road adjacent to the property. Seconded by Commissioner Mitchell, finding that it would create an undue hardship, and the fact that the impacts fees would help mitigate at a later date. None voting nay. Motion carried. Commissioner Vincent moved to approve the Laszloffy Minor Subdivision, finding it is consistent with state law 76-3-608 MCA. Seconded by Commissioner Mitchell. Commissioner Murdock, adding the conditions as written by staff. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for public hearing and consideration of a request for preliminary plat approval on behalf of Rocky Mountain Engineers for the Cantril Minor Subdivision for a three lot minor subdivision on 21.989 acres. It is located east of Belgrade at the southwest corner of Airport Road and Springhill Road. The property is described as Tract 1 of COS 2285, located in the SE ¼, SE ¼ of Section 3, T1S, R5E, PMM, Gallatin County, Montana. The Belgrade City-County Planning Board voted at their August 26, 2002 public meeting to recommend preliminary plat approval of the subdivision, subject to the conditions. No variances were requested. There are existing residences on Lot 1 and 2 therefore, there would be one impact fee required and not two as indicated by the staff report under "Effect of Local Services". Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with highlighting the suggested conditions. The Gallatin County Commission needs to make the following determination: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. A homeowners association shall be established for the shared maintenance of Cantril Lane. e. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. Two copies of the covenants, a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer must obtain an encroachment permits from the Gallatin County Road Department for any new driveways to Airport Road. 11. The developer shall provide one of the following standards to ensure a reasonable level of fire protection and life-safety to the public and firefighters. The following requirements must meet the specifications of Gallatin County Subdivision Regulations Section 6-E-5 and be reviewed and approved by the Belgrade Rural Fire District. The subdivider shall obtain written verification from the Belgrade Rural Fire District that one of the following requirements has been met. a. A single 10,000 gallon water supply for each home and associated structure meeting the requirements of Section 6-E-5 (a). b. A single 20,000 gallon water supply meeting the requirements of Section 6-E-5(b). c. A rural fill site meeting the requirements of Section 6-E-5(c). d. R-3 occupancies as defined by the Uniform Fire Code may be protected by automatic fire sprinkler systems meeting the requirements of NFPA 13D. If the sprinkler options is used the covenants must include the following provisions. 1. Automatic fire sprinkler systems shall be installed in all structures, which are used for living and home business which people normally occupy. The fire sprinkler system must meet the requirements of NFPA 13D. 2. A stamped set of engineered sprinkler system plans and covenants requiring the installation of sprinklers shall be submitted to the Belgrade Rural Fire District for review and be approved prior to construction, and the sprinkler system

must be inspected by the Belgrade Rural Fire Department during construction and at completion as required by the Belgrade Fire Chief. e. A pressurized fire hydrant system meeting the requirements of Section 6-E-5(e). 13. 30 feet of Airport Road south of the centerline shall be dedicated to the public on the final plat along the entire length of the subdivision. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval.

Because Airport Road is an arterial road, the Gallatin County Road Department requested 45 feet rather than the customary 30 feet therefore, Mr. Karp noted a change to condition #13, changing it from 30 feet to 45 feet. He recommended adding the following condition to read as follows: #14) "Cantril Lane shall be a 60-foot right-of-way dedicated to the public, constructed to County Standards, with a minimum of 75-foot paved off Airport Road, and a cul-de-sac at its south end." Further discussion took place regarding maintenance of the ditches. The applicant's representative Ray Center on behalf of Rocky Mountain Engineering confirmed that the applicant was in agreement with the conditions. However, due to the terrain in the area and the existing driveways, he requested modifying the language slightly in condition #14, to have an approved turn around, rather than a cul-de-sac. Commissioner Mitchell asked if the applicant would be opposed to conditions accommodating the irrigation ditch and the Middle Cottonwood Creek. Mr. Center was in agreement. Simeon Cantril noted that the rights to the irrigation ditch belonged to Gary France and he maintains it. Further discussion took place with regard to having the ability to maintain the ditch. George Durkin representing the Gallatin County Road and Bridge Department was in agreement to the proposed change to condition #14, noting that he would refer the developer to work with the fire department on the approved turn around. Assistant Fire Chief of the Belgrade Rural Fire Department was also in agreement. Mr. Karp added the following language for the ditches as condition #15) "Maintenance easement shall be shown on the final plat for the irrigation ditch"; and covenant 5(f) "Lot owners may not access the irrigation ditch without deeded water rights and the ditch owner must grant permission for any alteration to the irrigation ditch." He also agreed to the modification to condition #14: changing "cul-de-sac", to "an approved turnaround."

Commissioner Mitchell moved to approve preliminary plat of the Cantril Minor Subdivision, finding that it meets the Belgrade Master Plan; the Subdivision Regulations; the Montana State Statutes; with the conditions as submitted and altered; and with the addition of covenant 5(f), and conditions #14 and 15, as provided by staff and agreed to by the applicant. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and request for a variance and modification of condition of preliminary plat approval for the Green Hills Ranch Major Subdivision located in the W ½ of Section 15, T3S, R5E, PMM, Gallatin County, Montana. The property is generally described as 11258 Cottonwood Road, located approximately eight miles south of the Bozeman City limits. The subdivision was approved for 71 residential lots, a 91-acre agricultural lot, and 147 acres of common open space. On March 26, 2002, the Gallatin County Commission granted preliminary plat approval. A formal petition was submitted by Susan B. Swimley, attorney representing Green Hills Ranch Inc., requesting a variance from the Road Design Standards of the Gallatin County Subdivision Regulations, and a modification to condition #9 of the April 8, 2002, Findings of Fact and Order granting conditional preliminary plat approval. Condition #9 states the following: "Cottonwood Road shall be paved to a twenty-eight (28) foot arterial width from the end of the existing pavement to where the road veers southwest away from the project property line. Striping of Cottonwood Road shall be completed after paving." The applicant is requesting a variance from Section 7.J. Table 2., paving and Street Width Standards, which requires a paving width of 28 feet for major collector and arterial roads. The applicant is requesting that the above-described section of Cottonwood Road be improved to a paving standard acceptable to the Gallatin County Road and Bridge Department. It was Mr. Johnson's understanding that they wanted the paving width of this new portion of Cottonwood Road to match the existing Cottonwood Road and not create a foot overlap when heading south on the paved portion. If the request is granted then the subdivider requests that condition #9 be modified as follows: "The applicant shall apply a 2 inch overlay to Cottonwood Road beginning at South 19th Avenue and continuing south to the end of the existing pavement and applicant shall improve Cottonwood, from the end of the existing pavement to where the road veers southwest away from the property line, to a standard acceptable to County Road Department." Notice was published and sent by certified mail, and only two calls were received, and no written correspondence. George Durkin, engineer for the Gallatin County Road and Bridge Department reviewed the variance and condition modification request, and stated that the Road and Bridge Department supports the request because the improvements would benefit the traveling public and make that section of Cottonwood Road safer for vehicular traffic. Mr. Johnson briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the request. The Gallatin County Commission has the following determinations to make with this request: A determination as to whether or not the requested variance should be granted. According to Section 13 of the Gallatin County

Subdivision Regulations, the County Commission may grant reasonable variances from the design and improvement standards of the regulations where it is found that strict compliance would result in undue hardship and is not essential to the public health, safety, and general welfare. If the variance request is granted: The Commission must determine whether to approve the requested change of condition. Section 13.G of the Gallatin County Subdivision Regulations addresses changes to conditions after approval as follows: Upon written request of the subdivider, the Commission may amend conditions of preliminary plat approval where it can be found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. If the County Commission approves the modification request, condition #9 of the April 8, 2002, Findings of Fact and Order shall be modified as follows: "The applicant shall apply a 2 inch overlay to Cottonwood Road beginning at South 19th Avenue and continuing south to the end of the existing pavement, and improve Cottonwood Road from the end of the existing pavement to where the road veers southwest away from the subdivision's west boundary to a standard acceptable to the Gallatin County Road and Bridge Department." Further discussion took place with regards to finding that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. Ms. Swimley stated that this condition was not impossible or illegal however, in reviewing the road and what would be better for the neighborhood based on public comment she pointed out that not only had they substantiated the variance from a public safety standpoint but also as unnecessary. Commissioner Mitchell expressed some concern with granting this variance, should Cottonwood Road be widen at some point in the future because of traffic demands. There was no public comment. Mr. Durkin recommended the change of condition and pointed out that he measured the road and the gravel portion varied and existing asphalt was only 22-foot, so it was determined that it would be better to improve it from the intersection out, which is a good transition point. Further discussion took place with regards to future improvements to Cottonwood. **Commissioner Mitchell moved to approve the change of condition, finding that this condition was unnecessary. She stated that after further thought and input from staff that this will balance out with the overlay and it would be good to slow traffic down, as a narrower road is a method of speed reduction even if paved. After further discussion the Commission, determined to change the process for approval. After further discussion, Commissioner Mitchell withdrew her motion. Motion by Commissioner Murdock finding that they can amend the conditions of preliminary plat approval because they found that the changes suggested are beyond the control of the subdivider and have rendered a certain condition unnecessary for all the reasons given. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved to grant the variance as requested from the conditions of preliminary plat approval for the Green Hills Ranch Major Subdivision, adding all the findings as previously discussed on record, adding the reason it would result in undue hardship is it was not essential to the public health, safety and general welfare. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Murdock moved to change condition #9 of the April 8, 2002, Findings of Fact and Order to be reworded as submitted in the staff report. Seconded by Commissioner Mitchell. Based on all the statements made on record, Commissioner Murdock found that the condition as previously worded was unnecessary therefore, the reason for the change. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:21 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 17th DAY OF SEPTEMBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:09 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

SEPTEMBER 9, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, Attorney Susan Swimley, Commission Secretary Rose Blaskovich and Commission Assistant Glenda Howze. The

Commission considered support of a grant application/resolution for Bostana Dairy, LLC. Mr. Watson explained that the corporation is planning to build a large dairy facility near Amsterdam. They are looking to secure an industrial revenue bond in the amount of 2.5 million dollars, with a 4% interest rate. It will be a 250 cow facility and will contract with Land 'o Lakes for milk. They will discharge 120 thousand gallons of wastewater a day. The Commission is being asked to sponsor the revenue bonds. The Commission asked that Tim Roark, Larry Watson, and Chris Gray work with Bostana on the legal and environmental issues involved.

The Commissioners considered approval of an asset disposal request for the Sheriff's Office and Rest Home. Commissioner Vincent made a motion to approve the request submitted by the Rest Home. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Vincent made a motion to approve the request submitted by the Sheriff's Office. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request for privilege to charge tipping fees at the Gallatin County Landfill at Logan. Commissioner Vincent made a motion to approve said request, noting that Finance Officer Ed Blackman has recommended approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of two contracts with Eden Systems for refresher training for BP/PB and interim Crystal Reports. Commissioner Vincent made a motion to approve both contracts as stated above. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

SEPTEMBER 10, 2002

- The Commissioners conducted regular County business.

SEPTEMBER 11, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell, GIS Director Allen Armstrong, Commission Secretary Rose Blaskovich and Commission Assistant Glenda Howze and guest Nick Gevock, Bozeman Daily Chronicle. The Commissioners considered approval of an agreement with Madison County, Gallatin County GIS Department and 911 for mapping services. The agreement is in the amount of \$55.00 an hour. Commissioner Mitchell made a motion to approve said agreement, finding that Chief Deputy County Attorney Chris Gray has recommended approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of the CJCC RFP proposal. Commissioner Mitchell stated that she does not want number four in until a later phase. Commissioner Murdock agreed. It was agreed that a cover letter would be attached to a version of the proposal that does not have number four and is ordered differently and sent to CJCC, asking them to draft the proposal in this fashion. Commissioner Mitchell made a motion to follow the outline as described, less number four. Commissioner Murdock seconded the motion. In discussion, Commissioner Murdock noted that he does not find this to change anything that the CJCC has recommended, but simply puts it in a more appropriate order; with the exception of one deletion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an asset disposal request for out-of-service beds from the Rest Home. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a memorandum of understanding for Gallatin County Technology. This is a memorandum of understanding that has been designed by the Strategic Planning Technology Team for Gallatin County technology needs. Commissioner Mitchell made a motion to approve the MOU for Gallatin County Technology. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero. Commissioner Mitchell made a motion to appoint ITS Director Ed Kawa as the Chairman of the committee. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed the County key policy. The issue remains that a master set of all Courthouse keys must be held somewhere for public access and health and safety issues. It was determined that a request would be sent to the County Attorney's office for an opinion on the matter. The Commission discussed the recommendation from the CIP committee, with a four to one vote, to pursue the purchasing of the lower Martel building. Commissioner Murdock made a motion to direct Chris Gray to solicit for proposals for an appraisal of said building, and request a District Court judge to appoint three disinterested citizens to review the appraisal when completed. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

SEPTEMBER 12-13, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated September 12, 2002, in the amount of \$389,073.46.
2. Contract(s): Purchase of Regional Park from Baxter Meadows Development. L.P.-Agreement to Sell and Purchase, Construction Agreement, Escrow Agreement.
3. Request for Common Boundary Relocation Exemption for Franz Schernthanes/Donna Frid, located in Section 34, T3S, R4E. (400 & 410 E. Williams Road, Gallatin Gateway). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. There was no public comment. Commissioner Mitchell requested that the agreements for the purchase of Regional Park from Baxter Meadows Development. L.P. be placed on the regular agenda for further discussion and information from the Deputy County Attorney. **Commissioner Vincent moved adoption of consent agenda, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Chief Civil Deputy County Attorney Chris Gray reported on the purchase of the Regional Park from Baxter Meadows Development. L.P.-Agreement to Sell and Purchase, Construction Agreement, Escrow Agreement. Mr. Gray highlighted the Sell and Purchase agreement, the addendum to the Sell and Purchase agreement, and the construction agreement that would consummate the Commission's action taken on July 16, 2002. The Escrow agreement was metamorphosed into the addendum. The construction agreement was for the purposes of constructing ponds, an amphitheater, parking spaces and trails for the proposed parkland. The developer is bound to both the design and construction of those improvements to the property. The addendum allows a certain portion of security in the transaction in the form of contractual security, in which the property would be bought back by the developer if there is a breach in any of the agreements. Commissioner Mitchell questioned if the agreement included landscaping, seeding, paving, wells, sprinklers or any maintenance. Mr. Gray replied, no however, the ponds would be essentially completed with groundwater rights and permitting would be transferred to the county. In reference to the concern with the obligation of the county paying for street improvements based on the annexation agreement, Mr. Gray explained that Oak and Ferguson were addressed in the addendum where the developer has indicated they will take over that obligation to create those roads as phasing takes place. **Motion by Commissioner Vincent to adopt the regional park agreement to sell and purchase this property, recognizing the addendum and the construction agreement. Seconded by Commissioner Mitchell noting she still had concerns with the agreements, adding that while they get the basis for structures, they are not usable. They have a gravel parking lot; ponds with no way to refill them; an amphitheater with no grass, seeding or sod; and no way to maintain this park which is annexed into Bozeman that has a parks department. Because of those things she could not support this park. Commissioner Murdock believed that the terms of the construction agreement and addendums satisfied his concerns that the county will not have further commitment to pave. He concurred that Commissioner Mitchell's points were valid as far as maintenance and development however, he was committed to get a structure in place, and to start on some form of a countywide park and recreation district to not only get this regional park but other parks and trails a mechanism for maintenance. Commissioner Vincent concurred with Commissioner Murdock's comments, adding that he always thought this was a challenge to the community, and any major step involves unanswered questions. He stated that they had to have the faith and belief to make this happen and if the energy gone into this today is continued, he was confident it would work. Commissioner Mitchell reiterated that they have processes in place for maintaining county parks, such as cost share incentives and through homeowner's agreements. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.**

Gallatin County Auditor Joyce Schmidt reported on receipt of the quarterly report of examination of books of County Officers for the quarter, ending June 30, 2002. There was no public comment. **Commissioner Vincent moved to accept the Auditor's quarterly report ending June 30, 2002. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Jim Pierce on behalf of Thomas, Dean & Hoskins reported on the continuation of award of construction bids for Canary Road RID #382. Mr. Pierce recommended awarding the contract to Big Sky Asphalt in the amount of \$147,997.25, contingent upon the sale of the bonds, and that the County authorize execution of the award and notice of award. **Commissioner Mitchell moved to award the construction bid to Big Sky Asphalt for Canary Road RID #382, in the amount of \$147,997.25, contingent upon the sale of the bonds. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a resolution to annex property into the Belgrade Rural Fire District. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-101. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Mitchell announced the public hearing and consideration of the first reading of a speed reduction ordinance for Bear Canyon Road/Lamotte School. Commissioner Mitchell read the ordinance. There was no public comment. **Commissioner Mitchell moved to approve the first reading of Ordinance #2002-09. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Viki Kosevich, a resident of Three Forks spoke on behalf of concerned citizens regarding the lack of laws and regulations regarding sexually oriented businesses that could potentially open up in Gallatin County, such as Teasers in Broadwater County. Dallas Erickson, representing "Montana Help our Moral Environment" gave a presentation on what communities can do to protect themselves against sexually oriented businesses opening in their neighborhoods. He went into detail regarding the lack of protection against pornography and obscenity in Montana, noting that Montana is one of four states that do not have a good obscenity law. He suggested contacting and retaining the Center for Law and Policy to write up a "sexually oriented business law", to prevent this sort of business in the County. He stated that they would work with the County Attorney and Planner at no charge. If the law were passed, they would then defend it if it were challenged, at no cost to the County. He stated that the Liberty Council also made that offer. He noted that it could be done through petition however, the Commission would have no input. Gallatin County Attorney Marty Lambert explained two ways the Commission could address a situation similar to what has occurred in Broadwater County. He stated the most legal and defensible way would be through zoning: 101-Citizen initiated zoning or 201- Top down county zoning, or the adoption of an ordinance under the county's general police powers. He explained the differences in regulating conduct and freedom of expression, and what the courts would recognize and respect. He also noted that Gallatin County does not have self-governing powers. Public comment speaking against sexually oriented businesses: Senator Don Hargrove; Ann Brigham; Kay Alexander; Florence Wilson; Tina Wambeke; Linda Hill; Don Brigham; Viki Kosevich; Allan Hill; Gloria Hardin; Roxie Martin. Commissioner Murdock noted several letters were also received. Concerns expressed were as follows: increased crime; decreased property values; blight to other businesses. Further discussion took place with regards to adopting a countywide interim-zoning ordinance prohibiting this activity in the entire county, giving time for the next legislature to address the issue. In that case, Mr. Lambert explained they would have to have an emergency situation affecting the health, welfare, safety or morals of the citizens of the district and have a growth policy in place or adopting a growth policy, or studying the issue. Commissioner Vincent moved that the County Commission request the County Attorney to draft a zoning ordinance to prohibit this type of activity in Gallatin County, and if in the County Attorney's best estimation, that under current law this cannot be done, then he draft a most restrictive ordinance possible under the law to provide protection to the citizens in Gallatin County in regard to nude dancing and all the things discussed that are affiliated with this activity. Commissioner Mitchell stated that the motion was out of order, as it was not advertised with adequate public notice for those who may have comments regarding this decision, so everyone could express their opinion. Commissioner Vincent stated that he would respectively yield the County Attorney's opinion however, this meeting was publicly noticed and they were not making any decision. He stated that the motion merely requested the County Attorney to initiate a draft. He added if it was the County Attorney's opinion that it was out of order, he would then ask the Commission to put it back on the agenda at their next business meeting. Mr. Lambert stated that it seemed overly technical with all due respect to Commissioner Mitchell however, he did not want to be inconsistent and was not familiar with the particulars she referred to. He believed the Commission could direct him to do what Commissioner Vincent requested. Commissioner Murdock stated that he was not going to second motion either. Commissioner Murdock sympathized

with all the comments made however, he added that countywide zoning has so many implications and although he believed they should approach it, he was not ready at this point to take that burden on at the impetus of a single issue. He reiterated that they had the option of a 101 Zoning District, and he would rather see it done that way. Sensing there would not be a second to the motion, Commissioner Vincent stated that he would keep working at getting the job done. He was not at all hesitant to zone the county on an issue like this, he believed they should do everything they could to protect our moral values in the same way we protect our air, water and land. He hoped at a later date the Commission might consider putting a referendum on the ballot to let the voters of Gallatin County decide whether they want this county zoned to prohibit this kind of activity. Commissioner Mitchell stated that she did not like sexually oriented businesses and agreed this kind of change is difficult for any community however, she encouraged them to pursue other options. Commissioner Vincent agreed there were other avenues and given his experience with the Legislature, he encouraged those that are committed to this objective to start talking to all legislative candidates now, establish their position, and hold them accountable. Commissioner Murdock promised that the Commission would include doing a referendum on the issue in future discussions. **No action taken.**

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Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a request for a Conditional Use Permit for Robert Braun/Windmill Storage to allow the expansion of an existing storage facility, a nonconforming use, in the Agricultural Suburban (AS) District of the Gallatin County/Bozeman Area Zoning District (the "Donut"). The applicant's property consists of a 2.9-acre parcel, described as Lot 1 of Minor Subdivision No. 144, located in the SE ¼ of the SW ¼ of Section 25, T2S, R5E, PMM, Gallatin County, Montana. The property is generally located on the west side of South 3rd Avenue, between Patterson Road and Goldenstein Lane, with a street address of 4585 South 3rd Avenue. Mr. O'Callaghan submitted site plans for the Commission to review. He briefed the Commission on the history of the property and its structures, noting the existing structure was in existence prior to the county's Zoning Regulation adopted in July 1999. Mr. O'Callaghan received a phone call in late May or early June from building official Neil Poulsen, with the City of Bozeman regarding this issue. Mr. O'Callaghan investigated and found that the new structure had been erected and the applicant had not obtained a land use permit. The new construction is within the confines of the already established storage yard, and meets the applicable setback requirements of the Regulation. Section 10.202 of the Regulation describes permitted uses. Mini warehouse-type storage facilities are not a permitted use in this District, and in this instance, this use was in existence prior to this zoning regulation so it is a lawful non-conforming use. The applicant's property meets all of the criteria of Section 50.020.C.7. with the exception of providing a minimum of two exits. In order to provide a second exit the applicant would need to remove existing mature landscaping and follow the drive access standards established in the regulation. It was noted that removal of existing landscaping to accommodate a second exit would cause further non-compliance with the landscaping provisions of the Regulation. For safety reasons, the Road Department did not support a second encroachment onto South 3rd Avenue. Mr. O'Callaghan outlined criteria for consideration of granting a conditional use permit for expansion of a non-conformance use, guidelines for issuing a conditional use permit, and the conditions. While Section 53.030.A outlines the findings, these findings are intended to be used for issuing a conditional use permit under normal circumstances and may not apply to the expansion of a non-conforming use. This application will not meet 12.D, as this was an existing non-conforming use at the time the Regulation was adopted. Planning Board reviewed this proposal on September 10, 2002, and unanimously recommended approval of the Conditional Use Permit, with conditions as suggested by staff and modified. The Planning Board recommended 6:1 removing part of staff suggested condition #2 that requires the applicant to obtain a building permit from the City of Bozeman, unless the County Attorney advises otherwise. Notice of this proposal and public hearings was sent to adjacent property owners via certified mail August 14, 2002, and published in the High Country Independent Press August 8 & 22, 2002. Notice was also posted in one conspicuous location on the site. As of September 11, 2002, no comment was received, other than the Sourdough Rural Fire District with no comment on the application as a neighbor or as a fire district. After hearing and considering all public testimony, the Gallatin County Commission needs to make the following determinations: 1. A determination as to whether or not to recommend approval of the requested conditional use permit; 2. A determination as to whether or not the request as proposed by the applicant is in the public interest, and that the expansion of the non-conforming use meets the criteria of Section 50.160.F of the Regulation: Criteria for consideration of granting a conditional use permit for expansion of a non-conforming use: a. Traffic impacts, both on-site and off-site; b. Off-street parking and loading requirements; c. The visual impact on the surrounding area; d. The degree of compliance with the adopted master plan and Zoning Regulation; e. The level of conflict with other uses in the surrounding area; f. The presence of other nonconformities in the surrounding area; g. The degree to which any existing unsafe or hazardous conditions would be mitigated; h. The viability of the subject structure(s); and i. On-site and off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other environmental

impacts.; 3. A determination as to whether or not the request as proposed by the applicant meets the criteria of Section 53.030.A of the Regulation: A. The site for the proposed use is adequate in size and topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly relate such use with the land uses in the vicinity; B. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; C. That the proposed use will have no adverse effect on the abutting property; D. ~~That the conditional use has complied with all conditions stipulated in Sections 46, 47, and 50.~~ If the County Commission recommends approval, the following conditions for the granting of the conditional use permit are suggested: According to Section 53.030.B of the Regulation, the Commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted: *a. That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure; b. That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use; c. That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns; d. That all of the special conditions shall be consented to in writing by the applicant.* 2. This conditional use permit shall not be valid until the applicant has obtained a land use permit from the County Planning Department and a building permit from the City of Bozeman, if consistent with applicable law. 3. Fire services and/or providing a water supply for fire fighting purposes shall be reviewed and approved by the Sourdough Rural Fire District. The applicant shall obtain written verification from the fire district that this condition has been satisfied prior to the issuance of a land use permit. 4. The applicant shall obtain a sign permit from the Planning Department prior to installing any signage for Windmill Storage. 5. The applicant shall install a sign at the entrance to the storage yard designating a one-way flow of traffic. 6. The storage facility shall be buffered from adjoining lands by a combination of screening and landscaping that is approved by Planning Department. 7. Hours of operation for this storage facility shall be limited to the hours between 6:00 am and 11:00 pm. 8. All exterior lighting for the storage facility shall be arranged so as to deflect light down and/or away from any adjoining residential district and shall not detract from driver visibility on adjacent streets. In addition, all lighting (except for security purposes) shall be turned off between 11:00 pm and 6:00 am. 9. No future expansion of this non-conforming use shall be permitted unless the property is brought into strict compliance with the standards set forth in the Regulation; specifically the parking, landscaping, and general development standards stipulated in Sections 46, 47, and 50. Applicant Bob Braun pointed out that the property has been commercial since 1947, and when the zoning changed he had no idea it was changed. He purchased the property with the intent to clean it up and has used it for storage of all sorts, as well as creating a park for his own use. He implied that when he built the new expansion, he was told there was no city ordinance. There was no public comment. During Board discussion it was noted that there was no viable alternative if denied and it would have to be torn down. Commissioner Vincent asked Mr. Braun to clarify his explanation regarding his knowledge of the zoning regulation and the need to obtain a land use permit. Mr. Braun admitted that he probably knew there were permits to be obtained but he was told at this particular time the city was not inspecting outside of the city limits and it was probably proper that he go ahead and build the building. He confirmed that there was no electricity, sewer or water in the building. Commissioner Murdock stated that he did not want to send the signal, that it was all right to build something without proper approval however, if it was not appropriate for the area and did not meet the criteria for approval he would not support it. He noted in this particular case nobody commented from the public, and a conditional use is a lawful expansion of the non-conforming use if it goes thorough the process therefore, he would vote for approval. Commissioner Mitchell concurred, adding that Mr. Braun has improved this area and he was in-between the last legislative session in regards to the building permits, and he had some valid argument. She believed it was an addition to the area, rather than a detraction. Based on the criteria of the Bozeman Area Zoning Regulation, Commissioner Murdock made findings based on the mitigations presented as conditions in the staff report and existing circumstances that the traffic impacts, both on-site and off-site are adequately mitigated or minimal and the same with the off-street parking, loading, and visual of the surrounding area. He noted that there was a park with trees and buffers, which help visual impacts, and Mr. Braun was a good neighbor. He believed the level of conflict with other uses would be minimal with other nonconformities in the area; they had not seen or heard of any unsafe or hazardous conditions that have not been mitigated; it has been a non-conforming use structure; and on-site, off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other impacts would be minimal as a storage facility. Commissioner Mitchell noted it was adequately demonstrated as reasonable, natural, and incidental to the growth of an existing non-conforming use. She added that the expansion would not encompass new land or property, as the existing property already had this existing conforming use; there was no public comment; and Mr. Braun was a good neighbor. Commissioner Vincent questioned if the

Zoning Regulations, the need to obtain a land use permit, and a building permit were all caught in this ambiguity. Mr. O'Callaghan stated that the only one affected was the City of Bozeman building permit. **Commissioner Mitchell moved to approve the Braun/Windmill Storage CUP, to allow the expansion of a legal non-conforming use in the Agricultural Suburban District, with all the findings stated, less condition #2, and with all other conditions as suggested by staff. Seconded by Commissioner Murdock. Commissioner Mitchell noted that the law was not clear at this point and time whether or not the city has the building permit jurisdiction over Donut area, and that the Planning Board unanimously recommended it. Commissioner Vincent stated he would vote against the motion, noting it was not easy as no one would want to contemplate tearing the building down therefore, he believed there needs to be a vote cast against the application if only to send a signal that the county needs to be very careful in this regard. In regard to the building permit, he believed the ambiguity surrounded the Donut area and given what the legislature did certainly held water. However, that leaves zoning regulation and the land use permit that was not subject to that uncertainty and he believed it would be good to send the message that the County Commission is going to be careful about these issues. Commissioner Murdock and Mitchell voting aye. Commissioner Vincent voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a request for preliminary plat approval by Gaston Engineering & Surveying on behalf of Allan Miller, Henry Dyksterhouse, and Marvin Doornbos for the Churchill North Major Subdivision which consists of two existing parcels totaling approximately 42 acres, and is described as a tract of land being Lot 4A of Minor Subdivision No. 230B and Lot 5A of Minor Subdivision No. 230A, located in the NW ¼ of Section 13, T1S, R3E, PMM, Gallatin County, Montana. In general, the proposed subdivision is located west of the Manhattan Christian High School, in the community of Churchill. The proposed subdivision application includes 58 residential lots (51 single-family, 7 multi-family) and 2.5 acres of dedicated parkland. The subdivision will be serviced by a community wastewater treatment system and individual water wells within each lot. No variances from the Gallatin County Subdivision Regulations have been requested. Mr. Johnson outlined the proposal with regard to land use: topography/geology/soils; groundwater; vegetation; parks; access/roads; water/sewer; and utilities. He briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the goals reviewed for conformance with the Gallatin County Plan. On August 27, 2002, the Gallatin County Planning Board conducted a public hearing for consideration of this preliminary plat and expressed concern that the applicant did not investigate or demonstrate that adequate available water resources were available to support the proposed subdivision without depleting existing water wells in the area. The Board also expressed concern that the applicant did not meet with Amsterdam School District officials to discuss mitigation measures prior to submitting their preliminary plat application. In conclusion, the Board determined that the proposed Churchill North Major Subdivision substantially complied with the Gallatin County Master Plan, and met the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. A motion to forward a recommendation approving the preliminary plat application with conditions of approval to the County Commission was passed by the Planning Board (4:3). The motion also directed the Planning Board to submit a letter to the Montana Department of Environmental Quality asking their reviewing authority to carefully look at the cumulative groundwater supply impacts the proposed subdivision will have on existing groundwater users in the Churchill community. In reviewing this subdivision application, the County Commission needs to make the following determinations: 1. A determination as to whether or not the application substantially complies with the Gallatin County Plan; and 2. A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and, 3. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision application, the following conditions are suggested: 1. The developer shall have three (3) years from the date of preliminary plat approval to complete all conditions, and apply for final plat approval for each development phase. **Required conditions to be completed prior to final plat approval for the first development phase:** 1. All interior subdivision road names shall be reviewed and approved by the Gallatin County GIS Department. 2. The developer shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 3. A property owners' association for the subdivision shall be created. 4. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 3, and the National Fire Protection Association Codes. b. The control of noxious weeds by the Property Owners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set

forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Property Owners' Association, the Association may cause the noxious weed to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. c. The Property Owners' Association shall be responsible for the operation and maintenance of all interior subdivision roads and parks. d. Property owners of the subdivision are informed that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. e. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 5. The subdivider and Amsterdam School District officials shall mutually agree on a method to mitigate impacts the subdivision will have on the Amsterdam school. The method of mitigation shall be acceptable to the County Commission. **Required conditions to be completed for each Phase final plat recordation:** 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. All parks shall be provided as shown on the preliminary plat, and shall be dedicated or conveyed to the Churchill North Property Owner's Association. 3. If required, a cash donation in lieu of the required parkland dedication shall be provided. Additionally: a. A "cash donation" is the fair market value of the un-subdivided, unimproved land. b. The amount of cash shall be stated on the final plat. c. The subdivider shall provide a current appraisal of the fair market value by a certified real estate appraiser of their choosing. The appraisal fee shall be the responsibility of the subdivider. 4. The subdivider shall obtain written approval from the Montana Department of Transportation confirming adequacy of the existing approaches for the new subdivision. 5. The subdivider shall establish a joint maintenance agreement between the Churchill North Property Owner's Association and the property associations or individuals currently responsible for the maintenance of Flying Eagle Way and Pleasant Street. Maintenance agreements shall be submitted to the County Road & Bridge Department. 6. Interior subdivision road plans, road maintenance plans, drainage plans, lot access plans, STOP sign and other regulatory or warning signs, and road name sign plans shall be submitted to the County Road & Bridge Department prior to the construction of the interior subdivision roads. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 7. Primary and secondary road access for each phase shall be provided. The primary and secondary access roads shall lie within a 60-foot public dedicated right-of-way or public easement, and shall be constructed to county standards for paved roads. 8. Interior subdivision roads shall lie within a 60-foot public dedicated right-of-way, and shall be constructed to county standards for paved roads. After paving, all interior roads shall be striped. 9. The Applicant shall either: a) construct all interior and off-site roads as required prior to final plat approval or; b) enter into an improvements agreement with the County for the completion of all required road construction. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 10. A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction. 11. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), and shall be inspected and certified by a Montana registered civil engineer. The subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to county standards. 12. With respect to paving of county maintained roads, a two (2) year written warranty, from the contractor, is required. This warranty shall be submitted to the Gallatin County Road and Bridge Department prior to final plat approval. 13. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2 of the Gallatin County Subdivision Regulations. 14. Road name signs shall be required at all intersections. Road name signs shall be installed or bonded prior to final plat approval. 15. A copy of the Homeowners' Association covenants shall be supplied to the County Road & Bridge Department prior to final plat approval. 16. State Department of Environmental Quality approvals shall be obtained. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 17. Installation of all sewer service facilities (sewer mains, manholes, etc.), including as built plans, shall be approved by the Amsterdam Churchill Sewer District 307 prior to undertaking any construction. 18. All required sewer service facility improvements shall be installed for each development phase. The subdivider shall either: a) complete the infrastructure installations prior to final plat approval of each phase, or b) enter into an improvements agreement with the County for the completion of the infrastructure installations. The improvements agreement shall comply with all requirements of the Gallatin County Subdivision Regulations. 19. A minimum 20 foot wide irrigation ditch maintenance easement, or an easement width as required by the ditch company,

shall delineated on the final plat. 20. The Applicant shall file and record ditch easements in accordance with Section 76-3-504(10) MCA. 21. Written confirmation shall be obtained from the ditch company, stating that the proposed development and maintenance easements will not create adverse impacts on the operation and maintenance of the ditch within the subdivision. 22. The subdivider shall provide water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The Amsterdam Rural Fire District shall approve the fire pond, hydrant locations, installation and operation prior to undertaking any construction within each development phase. The subdivider shall also obtain written verification from the Fire District that the required fire protection measures have been provided. 23. Sheriff protection mitigation acceptable to the County Commission. 24. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 25. All utility easements are to be shown on the final plat. Utility easements shall conform to Section 6.D.2 of the Gallatin County Subdivision Regulations, and shall be shown on the final plat. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 26. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, and water district. 27. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 28. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 29. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Articles of Organization or Incorporation for the Property Owners' Association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Property Owners' Association. c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Public road easements. e. Improvements agreements. f. Certificate of a Licensed Title Abstractor The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. These conditions have been structured to accommodate the phasing of this application. Mr. Johnson pointed out that both the Sheriff and the Amsterdam School District requested fees to mitigate impacts created by this proposal. The Planning Department received written comment from Dean B. Danhof (attached to staff report) and J. M. Bos, submitted as Exhibit "A". Further discussion took place with regard to adequacy of water supply. Mr. Johnson outlined the process an applicant would need to follow to receive water approval from the state. He pointed out that the applicant chose not to apply for approval by DEQ until after receiving preliminary plat approval due to incurred costs. The applicant's representative Dennis Foreman noted that this proposal is located next to an existing residential subdivision and briefly spoke regarding the accesses noting minimal impacts. In reference to condition #5, Mr. Foreman submitted Exhibit "B", from the Manhattan Public School stating that they would be willing to accept all students from this subdivision because their enrollment was down by 26 students (K-8). He also had a letter from the Manhattan Christian School welcoming students from this development. Mr. Foreman made the following requests with regard to the conditions: delete condition #5, based on information from the other schools; change condition #7, to not pave the secondary access during Phase 1, noting that this proposal would be built out in phases; and delete condition #23, because this development will be next to an existing community where enforcement currently exists. He went into detail with regard to groundwater in the Churchill area, noting in 1990 to 1992, DNRC conducted a study, and through that study, historical data showed groundwater dropped 10 to 15 feet, and this is contributed to the fact that agricultural practices in the area have gone from flood irrigation to sprinkler irrigation. The aquifer is dropping and at some point they predict it will stabilize. He went over historical statistics regarding water availability, and concluded that this subdivision will not deplete the water in the aquifer. Public comment: John Fowler; Arie Dyk; Gene Dykman, also speaking for Churchill Equipment; and Christy Douma. Several referred to a petition signed by individuals in opposition to this development, as well as noting this was a different kind of community because of its Bible base. The following concerns were expressed: school impacts; increased taxes; water availability; existing wells that have gone dry; traffic impacts; park maintenance; limited access; inadequate roads; and loss of prime agriculture. On behalf of Churchill Equipment, Mr. Dykman noted for safety reasons that the business requested mitigation by substantial fencing of the farming equipment that would be adjacent to the proposal. A continuance of the preliminary plat approval was requested in order to conduct a year around study of the groundwater. Mr. Dykman also submitted a blank petition for a groundwater control area, which would resolve problems of determining whether or not there is adequate water. He outlined the criteria required to establish a groundwater control district. Further discussion took place with regards to paying school tuition. Mr. Foreman clarified that the groundwater study referred to was conducted by DNRC from 1989 to 1991, and a former proposal that was referred to was 3 to 4 times the density that this is being proposed. He pointed out that central water and sewer systems on half-acre lots would not be

economical, and that this property was already annexed into the Amsterdam Sewer District, which is monitored by the state. It was also noted that this property has been split into 20 acre parcels through a previous minor subdivision and the road has already been built therefore, they seen this as a natural expansion of Churchill. He had no problem with fencing the farm equipment for safety reasons. Developer Marvin Doornbos spoke regarding previous land transactions and contributions made by the Doornbos family to the Churchill community. He stated he would withdraw his application if there was not enough water however, he believed there was adequate water to accommodate this proposal. Developer Henry Dyksterhouse spoke of wells in the area and monitoring. He stated it was not true that the water level was dropping and concurred that there was adequate water for the proposal. In concept, Commissioner Murdock felt that the Amsterdam/Churchill area, especially here, under the right conditions, and certain densities would be appropriate for development. He agreed it was good farm land however, there were lots of other good areas he would like to see kept in farming more than this one because they are not next to roads and services although, he concurred that water was a real issue. Further discussion took place with regard to agreements and requirements placed on the developer by DEQ, with regard to adjoining landowner wells and a condition of approval requiring the applicant to waive their right to protest participation in a water study district. The Commission also discussed similar situations with regard to water study issues. Commissioner Murdock stated if he were to vote in favor, he would want to see a condition asking or requiring the developer to put in a study that there will not be harmful effects to adjoining wells. In response to discussion of a continuance, Mr. Johnson replied that the Planning Department determined this application was complete on June 28, 2002, and statute requires the County Commission to take action within 60 working days, which would be September 24, 2002, and there was no voluntary extension agreement. In response to some of the public testimony, Commissioner Murdock noted that the parks will be developed and approved as a condition of approval and maintained by the homeowners association, a covenant that is irrevocable unless approved by the Commission. He believed that the roads should all be paved and done up front for the reasons mentioned, adding that the road impact fees should address extra traffic on adjacent roads. He agreed with the fencing requirement as needed mitigation. Further discussion took place with regard to where the fence would be placed. Commissioner Murdock believed they should leave the school mitigation condition as written. Commissioner Mitchell questioned if there were any comments from the Local Water Quality District. Mr. Johnson replied no. Commissioner Vincent stated that he was not prepared to vote for this proposal at this time. Based on 76-3-608 MCA, he believed there was a negative impact on agriculture with regard to local services. He believed there were some real problems relative to the impact on schools and how this subdivision will affect that situation. He commented in regard to the applicant's request to strike the Sheriff mitigation condition, stating they would then get the standard letter from the Sheriff stating that he cannot provide adequate protection. Although there are some questions with regard to that, he was worried about the possibility if the subdivision were approved and at some point there was a criminal incident that it might get looked into, finding the subdivision was approved given this letter and there could be legal problems. He was very uncomfortable in regard to the water and he did not want to make an approval without knowing the facts, as there can be substantial differences in the availability of water over relatively short distances. Commissioner Mitchell shared those concerns, particularly on the water, because the study was done in 1989 and 1991. Given water is so important to individual residences and agriculture, she believed it would prove the applicant a good neighbor to make sure there was a level of comfort therefore, she questioned if the developer would be willing to grant an extension, so they could look into the water issues. She concurred this would be a good location for development, and a logical progression. She was not against the concept or the development however; she stated that it was the responsibility of the Commission to make sure they have mitigated all the impacts. Commissioner Vincent stated that would be acceptable to him. Developers Allan Miller and Mr. Doornbos were in agreement to the extension. Discussion took place with regards to how long the study takes to be completed. Mr. Dykman stated that for accuracy it was suggested to the Planning Board to be monitored for a one-year period. Commissioner Mitchell recommended that this decision be tabled until more information is learned with regard to the process and water. Gallatin County Planning Director Jennifer Madgic recommended that the Commission establish a set time for the continuance. Mr. Johnson added that the applicant could chose to withdraw the application until they go through this process and have more conclusive evidence. Mr. Foreman suggested they table the consideration to see if they could instigate an on-site ground water study. They would put in a test well and an observation well and perform a test by observing adjoining wells at certain depths and see if there is any impacts to existing wells and how it effects the aquifer. They would then submit it to DNRC for their review and comments. In the meantime they could go with the Water Quality District. He added that monitoring water levels would not tell them anything because it fluctuates. Commissioner Mitchell stated that she personally did not have the expertise in this area to know if this suggestion was adequate or inadequate or if it meets the particular process criteria. Mr. Foreman was in agreement to a 3 to 4 week postponement. The decision was continued until October 15, 2002. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 1:29 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 1st DAY OF OCTOBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:13 A.M., at the Big Sky Fire Hall, in West Fork Meadows. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

SEPTEMBER 16, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Commission Secretary Rose Blaskovich and Commission Assistant Glenda Howze. The Commissioners considered approval of a request from Hebgen Lake Advisory Committee for use in the update of the Hebgen Lake Zoning Regulations. Finance Officer Ed Blackman stated that the money could come from either contingency or Planning Department budget to fund this expenditure. Commissioner Mitchell made a motion to fund an additional \$2,000 with a requirement for deliverables to be resolved, and the expectation that the project will be completed by October 31, 2002. Commissioner Murdock seconded the motion. In discussion, it was noted that Mr. Blackman would work with the budget matter and discuss it with Planning Director Jennifer Madgic. All voted aye. Motion carried unanimously. The Commission also discussed the appointment memo from Judge Salvagni regarding the Systems Assessment Task Force. The Commission agreed to write him a letter asking him to consider adding an additional member, namely Archie Alexander, in order to have a broader representation of view points, and also suggested that one of the suggested law enforcement members be replaced with a judicial member.

SEPTEMBER 17, 2002

- The Commissioners conducted regular County business.

SEPTEMBER 18, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, Commission secretary Rose Blaskovich and Commission assistant Glenda Howze. The Commissioners considered approval of the signing of asset disposals, titles, automobile power of attorney, and odometer certification for the two Sheriff Department vehicles that were recently totaled. Commissioner Vincent made a motion to approve the signing of all pertinent documents. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioners considered approval of the signing of the certificate of substantial completion for Figgins Sand and Gravel, Contract 2002-024G, RID 378. Commissioner Vincent made a motion to approve the signing of said certificate of substantial completion, finding that Chief Deputy County Attorney Chris Gray and Finance Officer Ed Blackman have recommended approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero. Discussion regarding the Martel Building was postponed. It was noted that the building is a very well maintained building and is in a good location. The south first half would be purchased first with the option for the other half to be bought the next year. The appraisal process is in the works and will take 3-4 weeks to complete
- The Commissioners attended a special meeting for the purpose of approving claims listed on the voucher list dated September 16, 2002. In attendance were Commissioners Mitchell and Vincent, Accounting Clerks Mary Noack, Jeannie Brown, and Renee Huyser, and Commission assistant Glenda Howze. Commissioner Vincent made a motion to approve claims including check numbers 8014100-8014109, totaling \$2,726.31. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

SEPTEMBER 19-20, 2002

- The Commissioners conducted regular County business.

SEPTEMBER 23, 2002

- Commissioners Murdock and Mitchell attended the Annual MACo Conference in Big Sky Montana, September 23 – 25. Commissioner Vincent attended to regular County business.

SEPTEMBER 24, 2002

- The Commission held a special meeting for the purpose of receiving and opening bid bonds for Canary Road RID #382. In attendance were Commissioners John Vincent and Jennifer Smith Mitchell (via conference call), Treasurer Anna Rosenberry, Attorney Susan Swimley, and Commission Assistant Glenda Howze. Commissioner Vincent called the meeting to order. Ms. Swimley noted that two bids for bond bids were received and that notice has been posted at the City Commission Meeting room chambers noting that the meeting has been changed to the Commission office. Ms. Rosenberry opened the first bid, submitted by DA Davidson on September 20 at 2:00 pm. Enclosed in said bid is a good faith check in the amount of \$4,000.00. The bid is for \$196,000 plus accrued interest. Gross interest is in the amount of \$94,385.94 on a \$200,000. A discount of \$4,000.00 has been offered. Net interest will be \$98,385.94, with a net effective rate of 5.6220536%. Ms. Rosenberry opened the second bid, submitted by Mountain West Bank on September 20 at 4:00 pm. Enclosed in said bid is a good faith check in the amount of \$4,000.00. The bid is for \$199,000 plus accrued interest. The gross interest, net interest, and net effective rate have not been calculated. Ms. Rosenberry agreed to calculate the missing information, review both bids, and return at 3:00 pm with a recommendation for award at 3:00 pm. The meeting was adjourned until said time.
- The Commission held a special meeting for the purpose of approving claims dated September 19, 2002. In attendance were Commissioners Vincent and Mitchell (via conference call), Auditor Joyce Schmidt, Accounting clerks Jeannie Brown and Renee Huyser, and Commission assistant Glenda Howze. Commissioner Vincent called the meeting to order and read the claims voucher, noting that today's approval would be for claims numbered 8014110 – 8014384, totaling \$299,360.32. Commissioner Mitchell made a motion to approve said claims. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commission reconvened at 3:09 P.M. for consideration of the recommendation of award of the bid bond for Canary Road RID #382. In attendance were Commissioners John Vincent and Jennifer Smith Mitchell (via conference call), Treasurer Anna Rosenberry, Attorney Susan Swimley, and Acting Clerk to the Commission Mary Miller. Commissioner Vincent called the meeting to order. Ms. Rosenberry calculated the gross interest, net interest, and the net effective rate, that was omitted from the Mountain West Bank bid. Those were as follows: gross interest cost \$68,467.81; premium/discount \$1,000; net interest cost \$69,467.81; and net effective rate 3.967766%. D.A. Davidson calculations were as follows: gross interest rate \$94,385.94; premium/discount \$4,000; net interest cost \$98,685.94; and net effective rate 5.6220536%. Ms. Rosenberry recommended that the Commission accept the bid from Mountain West Bank that submitted the lowest net interest cost and interest rate. Commissioner Mitchell moved to accept the bid from Mountain West Bank at the interest rates and costs calculated by the Treasurer for the bid for Canary Lane RID. Seconded by Commissioner Vincent. None voting nay. Motion carried. Commissioner Mitchell moved to award the sale of bonds to Mountain West Bank approving Resolution #RID-02-382D. Seconded by Commissioner Vincent. None voting nay. Motion carried. The meeting adjourned at 3:14 P.M. Ms. Rosenberry will return the good faith check to D.A. Davidson.

SEPTEMBER 25, 2002

- The Commissioners conducted regular County business.

SEPTEMBER 26, 2002

- The Commissioners attended a regularly scheduled Finance Monthly meeting. In attendance were Commissioners Murdock and Mitchell and Finance Officer Ed Blackman. Mr. Blackman recommended approval of the Bridger Appraisers proposal for a limited scope appraisal on the low-rise Martel Building at a cost of \$3,000. Commissioner Murdock made a motion to approve the use of Bridger Appraisers for the appraisal of said building at a cost not to exceed \$3,000. Commissioner Mitchell seconded the motion. All voted aye. Motion carried two to zero.
- The Commissioners attended a special meeting for the purpose of approving claims listed on the voucher list dated September 24, 2002. In attendance were Commissioners Murdock and Mitchell,

Auditor Joyce Schmidt, Finance Officer Ed Blackman, Accounting Clerks Jeannie Brown and Renee Huyser, and Commission assistant Glenda Howze. Commissioner Mitchell made a motion to approve claims including check numbers 8014385 – 8014390, totaling \$57,522.76. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

SEPTEMBER 27, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated September 26, 2002, in the amount of \$22,307.09.
2. Approval of Application for Cancellation of Taxes for Parcel Numbers: PPP3739, PPP12956, rut20524, PPP8269, and PPP7762: totaling \$2,146.24.
3. Consideration of Contract(s): USDA-Wildlife Services Predatory-Cattle Agreement; USDA-Wildlife Services Predatory-Sheep Agreement; Gallatin County Justice Court Maintenance Agreement with Terrell's Office Machines, Inc.; Denning, Downey & Associates, P.C.; Agreement for Receipt of Resort Tax Funds for FY 2002-03, Supplement to 2001-02; Admin. Agreement between Gallatin County and Intermountain Administrators; and Road Improvements-Jackson Creek Road with JTL Group, Inc. and Gallatin County.

Commissioner Murdock announced the following items on the regular agenda to be continued: Item #1, public hearing regarding protest of the creation and a resolution creating Lake Subdivision RID #384, and Item #3, public hearing and consideration of an inducement resolution for the issuance of revenue bonds for Bostana Dairy, L.L.C.

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of the recommendation for the Community Development Block Grant Revolving Loan Award for Big Sky Precision, Inc., of Manhattan in the amount of \$200,000. Paul Chausse' on behalf of Big Sky Precision gave an overview of the business, which currently employs 21 employees. They plan on adding 3 to 4 more employees in the next 6 to 8 weeks, and 8 to 10 employees in the next two years. He explained some of the various products manufactured by the machine shop such as hitch pins, and the most recent being a wheel chair axle, which has led to a whole host of products based on this concept. He explained with their computerized machinery it was a perfect fit for unskilled labors that can become productive with just a few hours of training. He noted that use of the funds would be mostly used for working capital to build their inventories and pay personal property taxes. It was suggested that Mr. Chausse' look into the tax abatement program offered through the county. Mr. Watson pointed out that the Revolving Loan Board is comprised of 5 members, and the vote on the recommendation of this loan was 4 votes in favor and 1 abstention. He qualified that the abstaining vote was Bob DeWit, a Manhattan banker who had a conflict of interest on this issue because the Manhattan State Bank has helped refinance some of the debt for Big Sky Precision therefore, the bank stands to benefit should the county grant the loan. CDBG board members Chris Budeski and David Weaver gave their perspective of the board's consideration of the loan. They looked at the financial situation, marketing plans and potential to sell the product. Pleased to hear the CDBG Board members report, **Commissioner Mitchell moved to support the \$200,000 loan at 5 percent for 7 years for Big Sky Precision Inc., to pay off their debt and move forward, finding that the CDBG Board has analyzed this and feels that it is a good investment, as well as being contingent upon all the required paperwork. Seconded by Commissioner Vincent, noting this is the kind of new economy that is being promoted in the valley offering clean industry, jobs that offer a promise of a career and higher salaries. None voting nay. Motion carried.**

Anita Shaw-Tymrak, Detention Center administrator reported on the public hearing and consideration of a resolution establishing the daily rate for incarceration at the Gallatin County Detention Center. Both Ms. Shaw-Tymrak and Gallatin County Fiscal Officer Ed Blackman outlined the increases. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-102. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution establishing the claims clearing fund for Gallatin County, Fund #7935, recommending approval. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2002-103. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Deputy Gallatin County Attorney Kate Dinwiddie reported on the public hearing and consideration of a bond resolution for Hyalite Meadows RID #383, recommending approval. There was no public comment. **Commissioner Mitchell moved to approve Resolution RID-02-383-E, as recommended by the County Attorney's office. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Commissioner Mitchell reported on the public hearing and consideration of the second reading of the speed reduction ordinance for Bear Canyon Road/Lamotte School. The first reading was approved September 17, 2002. There was no public comment. **Commissioner Vincent moved to approve the second reading of Ordinance #2002-09. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** The ordinance will take effect 30 days from today.

Commissioner Vincent reported on the public hearing and consideration of the first reading of the speed reduction ordinance for Stonegate Subdivision. There was no public comment. **Commissioner Mitchell moved to approve Ordinance #2002-010. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

The Commission opened the meeting for public comment. Carol Collins, a Gallatin Canyon resident presented each member of the Commission with a copy of an article containing photos of the Gallatin Canyon, noting the lack of enforcement for zoning and sanitary restrictions in this area. Further discussion followed regarding ways to solve this issue. Dee Rothschiller, BSOA administrator brought to the Commission's attention a pending petition to that they would be submitting for a speed limit reduction on Ousel Falls Road, for a 35 mph speed limit. Ms. Rothschiller also inquired about additional funding that she requested for the Hebgen Lake Zoning process. The Commission was confident that those funds had already been approved. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 10:15 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 8th DAY OF OCTOBER 2002

The meeting was called to order by Acting Chairman Jennifer Smith Mitchell at 9:11 A.M., at the Fairgrounds Building #4. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Bill Murdock was on vacation.

Acting Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

SEPTEMBER 30, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, Auditor Joyce Schmidt, Accounting Clerks Renee Huyser, Commission secretary Rose Blaskovich, and Commission assistant Glenda Howze. Commissioner Murdock joined the meeting following a commitment at a 9-1-1 Admin. Meeting. The Commission

considered claims listed on voucher list dated September 25, 2002. Commissioner Vincent made a motion to approve said claim numbered 8014391 in the amount of \$6,300. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request for two additional credit cards for the Health Department, one to be designated for Environmental Health and one to be designated for Health and Human Services, both with a credit limit of \$900.00. Commissioner Vincent made a motion to approve said request, noting that both the Fiscal Officer and Auditor recommend approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an inventory control transfer for a lap top computer from the Sheriff's Office to the Commission Officer. Commissioner Vincent made a motion to approve said transfer. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an inventory control trade-in/purchase of copier machines for the Treasurer/Motor Vehicle Department. Commissioner Vincent made a motion to approve said trade-in/purchase. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Chief Deputy County Attorney Chris Gray updated the Commissioners on the Muhlenfeld vs. Gallatin County case/settlement agreement.

The Commission considered approval and signature of a quitclaim deed to the Fisher Family Trust. Mr. Gray explained that in 1928 the County took property located in the City of Belgrade by tax deed. Somewhere between 1928 and 1945 this property was then deeded to the Claus', then to the Capps, and then to the Fishers. Lots 5 and 6 of Block 5, Hubb Addition, Belgrade are held in the Fisher Family Trust, who now wishes to sell the property. During a title search by Security Title Co., it was discovered that there is a gap in the chain between the County tax deed and the Clauses. Mr. Gray is recommending that the Commissioners sign a quitclaim deed from the County to the Fisher Family in order to clean up the chain of title. Commissioner Vincent made a motion to authorize the Chairman to sign the quitclaim deed from Gallatin County to the Fisher Family Trust for lots 5 and 6 of Block 5, Hubb Addition, Belgrade, upon completion. Commissioner Mitchell seconded the motion. In discussion, Mr. Gray noted that Security Title Company is requesting this action after a title examination on the property in question. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered the hiring of Attorney Holly Brown to complete a buy-sell agreement that will include a four-point condo arrangement, and authorization of the chair to sign the buy-sell when appropriate. Commissioner Vincent made a motion to hire Holly Brown to draft the appropriate buy-sell agreement documents and pay her from the PILT professional services fund, and authorize the chair to sign the buy-sell document when completed. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed the Code of the West and agreed to order 20,000 copies, and determine the appropriate funding source following a discussion with Finance Officer Ed Blackman.

OCTOBER, 1 2002

- The Commissioners conducted regular County business.

OCTOBER 2, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, HR Director Randy Kuyath, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. Also in attendance were guests Dick McConnen and Bratton DeBos. The Commissioners considered approval of claims submitted on voucher list dated September 30, 2002. Commissioner Murdock made a motion to approve said claim, numbered 8014427, totaling \$17,061.19. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget appropriations transfer for Justice Court. Commissioner Vincent made a motion to approve said transfer. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed the regional park on Baxter Lane with Mr. McConnen and Mr. DeBos. Issues discussed were the creation of a regional park task force board, fund drives, the YMCA development, and the review of construction agreements submitted by Baxter Meadows. The Commission asked FORParks to review the construction agreements, along with Chief Deputy County Attorney Chris Gray and Ms. Howze, and return a recommendation to the Commission prior to the October 20 deadline.

The Commissioners considered approval of the Affirmative Action Plan created in compliance with the COPS grant. Commissioner Vincent made a motion to approve the plan. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed the Department Head Pay Plan. Mr. Kuyath explained that currently

the Department Heads cap out at 10 years. A problem has arisen with Rest Home Administrator Connie Wagner's salary and she has a nurse that will soon exceed her salary. Commissioner Murdock made a motion to expand the pay plan to cap at 13 years, and gave Mr. Kuyath the authority to explain the proposal and offer Ms. Wagner a salary of \$58,213. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed an offer from Bridger Bowl Ski Area for the purchase of 100 ski passes for the price of \$26.00 per pass. These would then be sold to county employees and/or given as rewards and recognition. Commissioner Vincent made a motion to allow Mr. Kuyath to pursue the purchase of 100 ski passes from Bridger Bowl at the cost of \$2600.00, finding that he will work with Finance Officer Ed Blackman on the funding of said purchase. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

OCTOBER 3-4, 2002

- The Commissioners conducted regular County business.

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- Landfill Revenue for September 2002: \$146,232.50.
- Payroll for September 2002: \$1,222,435.95.
- Clerk & Recorder's Fees Collected for September 2002: \$83,163.48.
- A-101's for September 2002: \$1.16
- Application for Cancellation of Taxes for September 2002: \$3,045.06:
- New Hire Report for September 2002: Elizabeth Anderson, Sheri Brenton, Paul Bussi, Victoria Drummond, Summer Fuqua, Michael Harris, Stacy North, Danielle O'Leary, Serena Porter, Regina Robin, Emma Rodas, Randolph Sailer, Leslie Schmachtenberger, Christopher Scott, KatieRose Selvey, Sarah Wheelr, Kjerstie Wiltzen
- Terminated Employees' Report for September 2002: Melba Booth, Sheri Brenton, Lornn Caldwell, James Jones, Rachel Lunn, Charles Napoli, Emma Rodas, Amanda Rufer, Casey Smithson, Erica Sparks, Jason Westfall

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated October 3, 2002, in the amount of \$267,577.43.
2. Contract(s): RID #380, Registrar and Paying Agent – Gallatin County/U.S. Bank; Amendment to Master Contract #1999-021, Task Order 01-07-4-11-120-0 w/City-County Health Department; RID Snow Removal, 2002-2003 – Bush Drilling, Inc.; RID Snow Removal, 2002-2003 – War Wagon Services; and RID Snow Removal, 2002-2003 – Kelly's Lawn Care & Landscaping.
3. Approval of Application for Cancellation of Taxes for Parcel Number(s): PPP957, PPP17374; totaling \$194.31.
4. Request for Consideration of Boundary Relocation for William R. & Stella S. Scott, located in the SE ¼ and SW ¼ of Section 25, T7S, R3E, (Beaver Creek Rd., Big Sky). Gallatin County Planner Sean O'Callaghan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for an Agricultural Exemption for Robert Foster located, in the SW ¼ of Section 2, T1S, R5E, (5900 Springhill Road, Belgrade). Gallatin County Planners Sean O'Callaghan and Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Request for Common Boundary Relocation Exemption for William Oldroyd, Pamela Naisbitt, and James and Samuel Kephart, located in Sections 21 and 22, T13S, R4E, (Approximately 11 miles west of West Yellowstone, South of Hwy 191). Gallatin County Planners Sean O'Callaghan and Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. Gallatin County Planner Sean O'Callaghan requested that consent agenda Item #5, Agricultural Exemption for Robert Foster be placed on the regular agenda for further discussion. The amendment to Master Contract #1999-021, Task Order 01-07-4-11-120-0 w/City-County Health Department was continued until October 15, 2002. There was no public comment. **Commissioner Vincent moved approval of the consent agenda, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan noted that applicant Robert Foster was unavailable and requested that this item be continued until later on in the agenda.

One vacancy exists on the Community Corrections Board due to the resignation of Charles Pipal. The appointee to this vacancy will fill out the remainder of Mr. Pipal's term to expire on July 14, 2005. To date, one application was received from Eugene Miceli. There was no public comment. **Commissioner Vincent nominated Eugene Miceli. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** Two vacancies exist on the Gallatin County Planning Board due to the term expiration of Howard VanNoy and the resignation of Paulette Neshiem. These positions are two-year terms. To date, three applications were received from John Watts, Connie Schnicke, and Brandee Wheeler. Ms. Schnicke and Ms. Wheeler do not qualify as they live within Manhattan and Belgrade Planning jurisdictions. Therefore, Mr. Watts is the only qualified applicant at this time. There was no public comment. **Commissioner Vincent nominated John Watts. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** Two vacancies exist on the Mental Health Local Advisory Board due to the resignations of Diane Thompson and Beverly Dodman-Mosback. Both positions are consumer/family of consumer positions. The appointee to Ms. Thompson's position would fill out the remainder of her term to expire on July 31, 2005. The appointee to Ms. Dodman-Mosback's position would fill out the remainder of her term to expire on July 31, 2003. To date, two applications were received from Justin Martin and Sally Miller, both qualifying to serve as family of consumer members, and the current board has given their recommendation that both applicants be appointed. There was no public comment. **Commissioner Vincent moved to appoint Justin Martin and Sally Miller. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** One vacancy exists on the Sourdough Rural Fire District due to the resignation of Jack Harper. Appointments to this position would be until the next fire district election, to be held May 6, 2003. To date, one application was received from Randy Larimer. The Sourdough Rural Fire District Board of Trustees submitted a letter of recommendation, asking the Commission to appoint Mr. Larimer to the board. There was no public comment. **Commissioner Vincent moved to appoint Randy Larimer. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** Two vacancies exist on the West Yellowstone TV District due to the term expirations of Ken Davis and Robert Altman. These positions are for three-year terms. Both Mr. Davis and Mr. Altman were notified and both indicated a desire to be reappointed. No additional applications were received at this time. There was no public comment. **Commissioner Vincent moved to reappoint both Ken Davis and Robert Altman. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Attorney Susan Swimley representing Gallatin County RID's reported on the consideration of a corrected resolution of intention to create Lake Subdivision RID #384. Ms. Swimley explained that this resolution would be correcting the name of the road in the proposed RID for Lake Subdivision. On September 10, 2002, the Commission made findings to determine it was in the best interest of the public to proceed with creating the Lake Subdivision RID, and backed the bond sale with the revolving fund. After publication of the notice, a number of people living on Lake Road contacted the Clerk and Recorder and the engineer to correct the fact that the proposed improvements were to be on Lake Drive, rather than Lake Road. Ms. Swimley confirmed that it was her recommendation and bond counsels to pass this correction resolution and reaffirm the findings made on September 10, 2002. There was no public comment. **Commissioner Vincent moved to approve Resolution RID-02-384-B. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Robert Foster answered the Commission's questions as to his intentions for his request to create a parcel through the agricultural exemption process. Mr. Foster replied that his intention was to sell the smaller portion for pastureland to his neighbor for agricultural use, and the remainder would be used for farming. He had no intention to put a residence on the property. There was no public comment. Commissioner Vincent noted his only reservation was a memo from Gallatin County Planning Director Jennifer Madgic stating that she requested the County Attorney's opinion on this matter, and as of yet had not received a reply. Given there was not a statutory deadline; Commissioner Vincent suggested a continuance until they received the County Attorney's response. Commissioner Mitchell concurred. **No action taken.**

Gallatin County GIS Coordinator Allan Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Unnamed road to Terrell Lane). This was a resident initiated petition and met the requirements for a name change. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-104. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a resolution of intent amending the Belgrade Area Plan, as recommended by the Belgrade City-County Planning Board. Mr. Karp pointed out that the attached Exhibit "A", was a text change to clarify the intent of the Future Land Use Map (To be inserted after the third paragraph on page 27 of the Belgrade Area Plan); and the attached Exhibit "B", a copy of the proposed amended Future Land Use Map in the Belgrade Area Plan. He recommended that the public hearing be scheduled for October 29, 2002. There was no public comment. **Commissioner Vincent moved to approve Resolution of Intention #2002-105. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on behalf of Gallatin County Planning Director Jennifer Madgic on the public hearing and consideration of approval of change of conditions of preliminary plat approval for the Kirkwood Ranch Major Subdivision. Preliminary plat approval was granted October 15, 2001. Lewis Burton & Associates requested a condition modification to reduce the scope of improvements made to Kirkwood Road in an effort to save vegetation and appease adjacent property owners' concerns that an improved road would attract more traffic. The modification concerns condition #11 which presently reads: All interior subdivision roads shall be built to County gravel standards and have a 60-foot right-of-way, and shall be public easements as provided in Section 7.B of the Subdivision Regulations. Such public easement shall apply to 30 feet of Kirkwood Creek Road #2581 east and west of the centerline, and 60 feet of the access road to Lots 1 and 2, plus all cul-de-sac areas. County standards require that Kirkwood Creek Road #2581 be constructed as a 26-foot-wide gravel road within a 60-foot right-of-way. The County Commission has one determination to make with this application: 1. A determination as to whether to approve the proposed change of condition. The Commission may change conditions where it is found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. If the Commission decides to approve the condition modification, condition #11 in the County Commission Findings of Fact(s) would be revised as follows: Kirkwood Creek Road #2581 shall be constructed to County gravel standards from the intersection of Highway 287 to the intersection with the access road along the south boundary of Lots #1 and #2. This also serves as the point at which Lot 5 is accessed. The new road along the south boundary of Lots #1 and #2 will be constructed to County Road standards as originally required. The increased width required to construct Kirkwood Road #2581 to County standards shall be added to the west side of the road, aligning the road off-center from centerline. The applicant's representative Lewis Burton stated that this was not a year around subdivision, noting little traffic compared to a typical subdivision. Mr. Burton stated that the biggest objection to those that live in the area was that they did not want to encourage traffic by having the major improvements into this subdivision. He also noted several smaller trees and shrubs that were important to those that lived in area, and that was the reason for moving the road to the west side of the 60 foot easement, as opposed to running it down the center. He stated that the Fire Department agreed that they did not need a cul-de-sac because they use the loop road through the subdivision. He pointed out that this allows good access to all the new lots however; it does not improve the part north of that access point. Mr. Lewis clarified an error made in the staff report on the revised condition, changing it from Lots #2 and #3, to Lots #1 and #2. Pam Sveinson, owner of Kirkwood Ranch questioned if a letter was received from the neighbors that were concerned with preserving the natural area. Ms. Sveinson stated that it was confirmed by the North Side Fire District that their equipment will be able to service the new subdivision and continue to serve the existing subdivision. Mr. Johnson provided the letter received from Raymond B. Mills and Carl H. Macklin to the Commission. There was no public comment. **Commissioner Vincent moved to grant the modification request by Lewis Burton and Associates for the Kirkwood Ranch Minor Subdivision, incorporating the language in condition #11, page 3 of the staff report, noting the change from Lots #2 and #3 to Lots #1 to #2, finding that the condition is unnecessary. Seconded by Commissioner Mitchell, finding that the testimony, the letters and the concurrent of the Road Department and Fire Department find this condition was unnecessary, as originally written and this modification will cover all the health and safety issues created by impacts. None voting nay. Motion carried.**

Bill Muhlenfeld owner and developer of the Saddle Peak Ranch requested that regular agenda Item #7, public hearing and consideration of a request for a variance for the Saddle Peak Ranch Major Subdivision be continued until October 22, 2002. **No action taken.**

Commissioner Mitchell announced that regular agenda Item #8, continuation of a public hearing and consideration of establishing a fee for review of Conditional Use Permits in the Bozeman Pass Interim Zoning Regulation would be continued until October 22, 2002, at the request of Gallatin County Planning Director Jennifer Madgic. **No action taken.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a request for preliminary plat approval on behalf of Allied Engineering Services, Inc., for Westland Enterprises Inc. and TM Land Partners, LP., for the Michener Creek Business Park Minor Subdivision located in the NE ¼ and SE ¼ of Section 5, T7S, R4E, P.M.M. Gallatin County, Montana. In general, the property is located on the west side of U.S. Highway 191, approximately one-half mile south of the intersection of Highways 64 and 191. The request is for a four lot commercial minor subdivision and the average lot size within the proposed subdivision is 28 acres. The proposed subdivision is within the Gallatin Canyon/Big Sky Zoning District. The zoning designation of the property is Commercial and Industrial Mixed Use (C-I). The subdivision proposal is in compliance with the design requirements of the C-I District. Because each proposed lot is greater than 20 acres, the subdivision is exempt from the Montana Subdivision and Sanitation Act, and therefore does not require Montana Department of Environmental Quality approval for water supply and wastewater disposal facilities within the development. Mr. Johnson noted if a facility were constructed on this property it will require a land use permit through the Planning Department and as part of that process they require approved septic permits prior to issuing the permit. Also, because it is zoned commercial, the Big Sky Regulations require a commercial site plan review, so the Planning Department will have the opportunity to review those plans. Notice was published in the Lone Peak Lookout and a courtesy notice was mailed to all adjacent property owners. There was no written comment received. Mr. Johnson briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision. In reviewing this subdivision application, the County Commission needs to make the following determinations: A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. Encroachment permits for highway access to each lot shall be obtain from the Montana Department of Transportation prior to final plat approval. 3. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 4. The subdivider shall provide a water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The subdivider shall have the Gallatin Canyon Rural Fire District review and approve the water supply prior to final plat approval. The subdivider shall obtain written verification from the Fire District that the required water supply and all additional fire safety protection measures have been provided. 5. The subdivider record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 6. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 7. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 8. A property owners' association for the subdivision shall be created. 9. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zone 4, and the National Fire Protection Association Codes. b. The control of noxious weeds by the Property Owners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA)

and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Homeowners' Association, the Association may cause the noxious weed to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. c. All garbage shall be stored in animal-proof containers or otherwise be made unavailable to animals. d. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 10. Two copies of the covenants, a copy of the preliminary approval document, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate of title abstract prior to final plat approval. 11. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. An existing linear trail to the west of the proposal was brought to the attention of Mr. Johnson therefore, he suggested the following condition: Applicant shall repair any damages to the existing linear trail to the west of the proposal as a result of any construction of new encroachments. To be approved by the Gallatin County Road Department. Craig Matson on behalf of Allied Engineering stated that the developer would be leaving two of the gravel pits in a configuration that will allow development as a commercial industrial park. Mr. Matson stated that the applicant was in agreement to the conditions, including the additional condition regarding the existing linear trail. Public comment: Walter Ainsworth an adjacent property owner objected to the Commission granting approval of this subdivision if in establishing this business park it will include continuation of gravel pit operations for any period of time until they feel they can use it for an industrial park. Mr. Ainsworth spoke in length referring to the Gallatin County Big Sky Zoning Regulations and the use of sand and gravel open cut mines. He also spoke regarding restrictions that apply in this area because it is the entry corridor for the Big Sky Resort, noting no enforcement of zoning in this area and pointing out many violations, which detracted from the area. He submitted Exhibit "A", a letter published in "The Big Sky Weekly" regarding this issue. Attorney Bill Madden representing the applicant replied that Mr. Ainsworth's remarks were improper and not applicable, noting this was a subdivision hearing, and not a zone change hearing. He stated that the gravel pits have been in existence since 1992, which predates the zoning and that they have the required permits from DEQ. He added that it was their intention to ultimately close the gravel pits at some point. Further discussion took place with regards to the gravel pits as an existing use. Mr. Johnson stated that he reviewed this application for compliance with the zoning, specifically lot size and configuration and that in his analysis and review it does not create any conflicts. While Commissioner Vincent believed that Mr. Madden was legally correct relative to outlining the process and criteria on a decision to approve, deny or conditionally approve this subdivision, he agreed with the comments made regarding the corridor. He stated that it almost looked dysfunctional and it was not a very scenic entryway. He suggested to the applicant if there was anything they could do with their future plans to enhance this entryway would be more than welcome. **Commissioner Vincent moved to approve the application for the Michener Creek Business Minor Subdivision, with all the conditions, finding it complies with State Statute 76-3-608 MCA, of the Montana Subdivision and Platting Act, the Gallatin County Plan, and the Gallatin County Subdivision Regulations. He stated that Mr. Johnson would determine the final language and insert it into the appropriate place in the conditions with regards to any damage done to the existing linear trail as a result of construction necessary for encroachment onto Highway 191, and that work to be inspected and approved by the Gallatin County Road Department. Seconded by Commissioner Mitchell, adding that they are working with Planning Staff and the County Attorney with regards to the lack of enforcement of the Regulations. She concurred that it would be nice to see the corridor cleaned up. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson on behalf of Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a reduction of improvements agreement for Potter-Clinton Development for Royal Village Amended Plat, Phase 1. Based on review of the original Improvements Agreement, the submitted request and the certifications/approval, Mr. Johnson recommended that the Commission approve the requested release. There was no public comment. **Commissioner Vincent moved to approve the release of credit for the Royal Village Amended Plat, Phase 1 in the amount of \$126,656.25. Seconded by Commissioner Mitchell, adding that it was reviewed and approved by the County Attorney. None voting nay. Motion carried.**

Open Lands Board Coordinator Michael Harris on behalf of Montana Land Reliance reported on the public hearing and consideration of a request for approval of no more than \$35,550 grant from the Gallatin County Open Space Fund to Alderman River Ranch, LLC, to assist in obtaining a 373-acre conservation easement on the Alderman River Ranch, LLC. The application was unanimously approved by the Open Lands Board on March 11, 2002, and approved by the Belgrade Planning Board on September 30, 2002. The amount of request and approval by the board was for \$32,050, for the reimbursement of costs related to the title transfer, appraisal and engineering. Chief Civil Deputy County Attorney Chris Gray suggested the Commission apply the following conditions: 1. Applicants enter into a conservation easement sale and purchase agreement with Gallatin County and prepare the deed of easement. 2. The sale and purchase agreement show Gallatin County in a secondary position to Montana Land Reliance, the participating land trust, in order to assure compliance with the strictures of Montana law and the Gallatin County Open Space Fund. 3. The satisfactory proof of value of the conservation easement in an amount of at least the amount of the funding requested. 4. Preparation execution of necessary and customary closing materials and documents. 5. The Deed of Conservation Easement be consistent with the current status of title to the land (i.e. Contract for Deed). 6. Final approval of the office of the County Attorney at closing. Attorney Susan Swimley commented that this proposed conservation easement is in the low-density area in the Belgrade Area Plan and consistent with the Open Lands Board policy. **Commissioner Vincent moved to grant approval of no more than \$32,050 grant money from the Gallatin County Open Space Fund to the Alderman River Ranch LLC to assist in obtaining the 373 acres conservation easement on the Alderman River Ranch, including the 6 conditions as read into the record by Mr. Gray. Seconded by Commissioner Mitchell, adding that the Belgrade Planning Board reviewed this and it is in the approved area and consistent with the Master Plan. None voting nay. Motion carried.**

Attorney Susan Swimley representing Gallatin County RID's reported on the pending resolution relating to \$200,000 RID #382 (Canary Lane) bonds, fixing the form and details and providing for the execution and delivery thereof and security therefore and providing for and establishing a maintenance fund for the district. There was no public comment. Although the closing was scheduled for October 10, 2002, Ms. Swimley requested the Commission sign the attached closing documents because of the lack of Commission quorum on that date. **Commissioner Vincent moved to approve Resolution RID-02-382E, and authorize the Acting Chair to sign relative documents. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

There being no further business the meeting was adjourned at 11:09 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 15th DAY OF OCTOBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:09 A.M., at the Wilson School Board Room. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Mitchell was on vacation.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

OCTOBER 7, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Mitchell and Vincent, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. The Commissioners considered approval of a budget transfer request from the Road Department. Commissioner Vincent made a motion to approve said transfer in the amount of \$18,000. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an inventory control form for a purchase of a computer

for the Commission office. Commissioner Vincent made a motion to approval said purchase form. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of cost estimate #2, for a contract with Gallatin Asphalt for RID paving and road maintenance program for FY 2002. Commissioner Vincent made a motion to approve payment of the cost estimate payment for Gallatin Asphalt. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Chief Deputy County Attorney Chris Gray and Finance Officer Ed Blackman explained the situation regarding RIDs to the Commission. Mr. Gray explained that the RID situation is out of control, and per the RFP policy set forth two years ago allows the County to designate Morrison Maierle as the RID engineer for the County. This would eliminate all of the problems that have arisen. Mr. Gray and Mr. Blackman will work with Mr. Jack Schunke in hopes of getting agreement with Morrison Maierle for this designation.

The Commissioners considered appointment of the five remaining applicants to the Four-Corners Advisory Council. Commissioner Vincent made a motion to appoint Richard Smith, Brian Cox, Joann Wattier, Frank Silva, and Roselee Faust as ad-hoc, non-voting members of the Four-Corners Advisory Council, finding that they will be available for committee work as needed, and noting that this will be the final appointment of any members to this board, ad-hoc or voting council, unless there are vacancies to fill. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed approval of pay-application #7 to Ingram-Clevenger in the amount of \$138,253.00. Commissioner Vincent made a motion to approve said pay application, finding that the work has been substantially completed as noted. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

OCTOBER 8-11, 2002

- The Commissioners conducted regular County business.

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- Landfill Revenue for September 2002: \$146,232.50.
- Payroll for September 2002: \$1,222,435.95.
- Clerk & Recorder's Fees Collected for September 2002: \$83,163.48.
- A-101's for September 2002: \$1.16
- Application for Cancellation of Taxes for September 2002: \$3,045.06:
- New Hire Report for September 2002: Elizabeth Anderson, Sheri Brenton, Paul Bussi, Victoria Drummond, Summer Fuqua, Michael Harris, Stacy North, Danielle O'Leary, Serena Porter, Regina Robin, Emma Rodas, Randolph Sailer, Leslie Schmachtenberger, Christopher Scott, KatieRose Selvey, Sarah Wheelr, Kjerstie Wiltzen
- Terminated Employees' Report for September 2002: Melba Booth, Sheri Brenton, Lornn Caldwell, James Jones, Rachel Lunn, Charles Napoli, Emma Rodas, Amanda Rufer, Casey Smithson, Erica Sparks, Jason Westfall

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated October 9, 2002, in the amount of \$544,344.50.
2. Approval of Contract(s): Negotiated Agreement between Gallatin County and Deputy Sheriff's Association; Big Sky Law Enforcement Contract for 2002-Gallatin/Madison Counties & Big Sky Resort Area District; Figgins Sand & Gravel-Change Order #11 to Contract 2002-024; Figgins Sand & Gravel-Change Order #12 to Contract 2002-024; Kerin & Associates Engineering Services for RID #383; Special Encroachment Permit-Ousel Falls Road; and Montana Department of Commerce and Gallatin County for the Pass through \$204.05 to Supplement the SBIR Funds from FY 02-03.
3. Request for Common Boundary Relocation Exemption for Thomas H. & Sue A. Ward located in the SE ¼ & SW ¼ of Section 3, T2S, R4E. (7915 River Road, Bozeman, MT). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Common Boundary Relocation Exemption for Jessie & Harold Lucas, Emily & Jeffrey Kenny, and the Churchill Retirement Home located in the SW ¼ of Section 13, T1S, R3E. (7881 & 7891 Churchill Road and 6151 Shady Rest, Amsterdam, MT). Gallatin County Planner

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Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda, noting the Big Sky Law Enforcement Contract for 2002-Gallatin/Madison Counties & Big Sky Resort Area District would be continued for one week. There was no public comment. **Commissioner Vincent moved to approve the consent agenda, as amended. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Treasurer Anna Rosenberry presented the Treasurer's quarterly report for the periods ending March 30 and June 30, 2002. There was no public comment. **Commissioner Vincent moved to accept and approve the third quarter report ending March 30, 2002, from the County Treasurer. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

I, Anna Rosenberry, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on March 30, 2002 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS IN TRANSIT</u>	<u>OTHER REC ITEMS</u>	<u>TREASURER'S BALANCES</u>	
Wells Fargo, Bozeman Branch	400712386	\$3,853,555.08	(\$45,560.20)	\$161,563.57	\$0.00	\$3,969,558.45	
	752756254	\$800,000.00	\$0.00	\$0.00	\$0.00	\$800,000.00	
AMERICAN BANK	280102436	\$99,228.98	\$0.00	\$117.10	\$0.00	\$99,346.08	
VALLEY BANK OF BELGRADE	108103	\$51,482.37	\$0.00	\$1,611.30	\$0.00	\$53,093.67	
MANHATTAN STATE BANK	4100013	\$32,567.56	\$0.00	\$829.43	\$0.00	\$33,396.99	
SECURITY BANK, THREE FORKS	5200116	\$11,727.96	\$0.00	\$304.15	\$0.00	\$12,032.11	
FIRST SECURITY BANK, WY	700351	\$22,205.49	\$0.00	\$30.25	\$0.00	\$22,235.74	
BIG SKY WESTERN BANK	101710	\$20,890.61	\$0.00	\$30.50	\$0.00	\$20,921.11	
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$0.00	\$100.00	
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		\$4,891,758.05	(\$45,560.20)	\$164,486.30	\$0.00	\$5,010,684.15	
						Cash	\$1,306,829.68
						School Investments	\$9,612,303.12
						Airport Authority	\$9,680,908.66
						County and Pooled Investments	\$30,884,175.28
						-----	-----
						-----	-----
						TOTAL Cash on Hand	\$56,494,900.89

Commissioner Vincent moved to accept and approve the fourth quarter report ending June 30, 2002, from the County Treasurer. Seconded by Commissioner Murdock. None voting nay. Motion carried.

I, Anna Rosenberry, County Treasurer of Gallatin County, State of Montana, upon oath depose and say: That, at the close of business on June 30, 2002 there was on deposit to my credit in the following banks, balances as shown by the statements of cashiers of such banks herewith: that, from such balances, there should be deducted for checks outstanding, and added for deposits made, amounts as follows:

<u>BANKS</u>	<u>ACCOUNT NUMBER</u>	<u>BANK BALANCES</u>	<u>OUTSTANDING CHECKS</u>	<u>DEPOSITS IN TRANSIT</u>	<u>OTHER REC ITEMS</u>	<u>TREASURER'S BALANCES</u>
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Wells Fargo, Bozeman Branch	400712386	\$6,956,850.97	(\$59,053.60)	\$1,588,603.08	(\$118,660.38)	\$8,367,740.07
	752756254	\$800,000.00	\$0.00	\$0.00	\$0.00	\$800,000.00
AMERICAN BANK	280102436	\$74,129.62	\$0.00	\$44,452.52	\$0.00	\$118,582.14
VALLEY BANK OF BELGRADE	108103	\$5,237.26	\$0.00	\$1,504.07	\$0.00	\$6,741.33
MANHATTAN STATE BANK	4100013	\$46,876.23	\$0.00	\$2,662.70	\$0.00	\$49,538.93
SECURITY BANK, THREE FORKS	5200116	\$5,044.24	\$0.00	\$331.25	\$0.00	\$5,375.49
FIRST SECURITY BANK, WY	700351	\$7,276.36	\$0.00	\$6,075.83	\$0.00	\$13,352.19
BIG SKY WESTERN BANK	101710	\$12,725.29	\$0.00	\$28,839.00	\$0.00	\$41,564.29
FISCAL AGENT	N/A	\$100.00	\$0.00	\$0.00	\$0.00	\$100.00
		\$7,908,239.97	(\$59,053.60)	\$1,672,468.45	(\$118,660.38)	\$9,402,994.44
						Cash
						\$242,492.44
						School Investments
						\$7,575,508.45
						Airport Authority
						\$10,167,045.39
						County and Pooled Investments
						\$34,127,789.48

						TOTAL Cash on Hand
						\$61,515,830.20

Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to create the “Four Corners County Water and Sewer District”, in the Four Corner area, simultaneously elect a board of directors, and ask to incur bonded indebtedness. The proposed legal description includes areas of Section 11 and 14, of T2S, R4E. Ms. Vance pointed out that state law requires that a petition to create a water and sewer district be “signed by registered voters within the boundaries of the proposed district equal in number to at least 10 % of the registered voters of the territory included in the proposed district”. In order for a water and sewer district to be created an election is required. The creation of a board of directors and bonded indebtedness also require elections. The Commission has the authority to combine these elections. Voters allowed to vote in water and sewer district elections include qualified registered voters as defined in Title 13, owners of taxable real property within the district, and the president, vice-president, or secretary of a corporation owning real property within the district. In 1979, Attorney General Mike Greely issued the following opinion: “A water and sewer district may be initiated by a petition signed by all of the non-resident, corporate property owners within the district where there are no other registered voters in the proposed district.” At the time of this certification, the proposed district has 12 registered voters and 15 landowners. None of the registered voters as defined in Title 13 signed the petition. Taking into consideration Attorney General Greely’s opinion and statutes in Title 7, Parts 22, and 23, Ms. Vance certified the petition with the inclusion of registered voters, taxable real property owners, and corporations owning property within the proposed district. The purpose being that no registered voter, taxable real property owner, or corporate owner is disfranchised of his or her right to participate in the petition process or election process. Therefore, she certified that the petition was signed by at least 10% of the potential voters within the proposed boundaries of the district. Further discussion took place with regards to clarifying the process, and timetable for the publication and the public hearing, should the Commission chose to delay acceptance of the petition at this time. Commissioner Murdock noted they would have to accept the petition if it was found to be valid per the advise of Gallatin County Attorney Marty Lambert. Commissioner Vincent preferred to proceed on that basis and accept the petition without setting a public hearing date. Public comment: George Metcalf; Tony Kolnik; Teri Kolnik; Bruce Nelson; Mike Potter; Attorney John Brown. Both Mr. Metcalf and Mr. Kolnik, are members of the advisory council formed at the urging of the Commission for the purpose of sewer and water planning; growth and development planning; and corporation issues in the Four Corners area. They both requested postponing acceptance or rejection

of the petition until the advisory council had time to inform the Commission of their discussion regarding the proposal. Mr. Kolnik, chairman of the advisory counsel asked for guidance on how to proceed if the petition was accepted and questioned if they were under a deadline to come up with a recommendation. Ms. Kolnik was concerned that the advisory council was being locked into a time frame, as initially the council believed they had until March 1, 2003, to come up with a recommendation. Mr. Nelson, construction project manager of Zoot Enterprises explained that it would have been easier for them to have proposed a treatment plant and disposal facility for just themselves, rather than take a community approach. However, they were asked by the Commission to take a community approach with their neighboring developments to come up with a core sewer/water district that could be expanded in the future to serve the Four Corners area. He noted that they did not include anyone outside the district to bear any financial responsibility for the water and sewer facilities within the proposed district. He did not see where proceeding with the certification process at this point and moving forward with the public hearing process would be inconsistent with the work of the council. As one of the petitioners, Mr. Potter, on behalf of Potter-Clinton Development stated they were working together as a coalition to create the core facility as requested by the Commission. He added that all of the lines were sized to interconnect for long term and designed for the general area and the capacity of the plant could be expanded. He encouraged the Commission to certify the petition. Public comment was closed. Commissioner Vincent preferred a one-week continuance to see whether or not they were obligated to accept this petition, noting that they would need to ask the petitioners if they would entertain a delay. John Brown, council for the proposed district, on behalf of the petitioners asked the Commission to certify the petition, and set the public hearing date once they consult with the County Attorney on the confines of the law. Commissioner Murdock stated it would be ideal if all those involved could agree to a time line however based on the County Attorney's advice they had to accept the petition. Referring to the law, Ms. Vance stated that she believed that the Commission could accept the petition and at a later date set the hearing. **Commissioner Vincent moved to accept the petition for the creation of the Four Corners Water and Sewer District, and set November 19, 2002, to discuss the dates of publication and setting the public hearing date. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of final plat approval for the Royal Village Amended Plat, Phase 1, Major Subdivision. Preliminary plat approval was granted June 11, 2002. Ms. Madgic stated that all conditions of approval had been met, and recommended granting final plat approval. There was no public comment. **On the advice of the Planning Director, Commissioner Vincent moved to grant final plat approval for the Royal Village Amended Plat, Phase 1, Major Subdivision. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Vincent reported on the public hearing and consideration of the second reading of a speed reduction ordinance for Stonegate Drive. There was no public comment. **Commissioner Vincent moved to approve the second reading of Ordinance #2002-10. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for a family transfer exemption for Judy Ann Lewis, described as a portion of Tract 3 of COS 2045, located in the SW ¼ of Section 17, T1S, R5E, Gallatin County, Montana. (East Cameron Bridge Road). Mr. Karp recommended approval. Judy and Robert Lewis were sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Based on response to the questions and Mr. Karp's recommendation, Commissioner Vincent moved to grant the family transfer exemption for the Lewis application. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for a family transfer exemption for Steven and April Maggard, located in the NE ¼ and the SE ¼ of Section 17, T1S, R4E, Gallatin County, Montana. (3913 Linney Road). Mr. Karp recommended approval. Steven Maggard was sworn in and testified under oath, answering

questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **On the basis of the testimony and recommendation of Mr. Karp, Commissioner Vincent moved to approve the family transfer exemption for Maggard. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing of a request for preliminary plat approval by Lewis Burton and Associates on behalf of Kandy Seavey (Newman) for the Newman Minor Subdivision, described as Tract B2 of COS 1443B, located in the SW ¼ of Section 34, T1N, R4E, P.M.M., Gallatin County, Montana. The request is for a 3 lot minor on 14 acres, located west of Belgrade on Kendall Court, which is off Thorpe Road. It was noted that the preliminary plat shows a trailer with a porch partially inside the Kendall Court right-of-way. The Road Department recommended that the porch be removed from the right-of-way before final plat approval of the subdivision. Mr. Karp outlined the proposal and summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision. The Belgrade City-County Planning Board reviewed the proposal and voted unanimously at their September 30, 2002, public meeting to recommend preliminary plat approval of the subdivision, subject to the conditions. In reviewing this subdivision application, the County Commission needs to make the following determination: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts, Water and Sewer Districts, and annexation into the City of Belgrade shall accompany the final plat. 5. The developer shall record covenants with the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. The covenants shall provide for the establishment of a Homeowner's Association. d. All fences bordering agricultural lands shall be maintained by the Homeowners Association in accordance with State Law. e. Lot owners within the subdivision shall participate with the Christy Subdivision property owners for the shared maintenance of Christy Subdivision roads that provide access to the Newman Minor Subdivision. f. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. g. The subdivision will residential only with commercial uses restricted to typical "cottage industries". h. The homeowners association shall participate in the shared maintenance of the Summit Subdivision fill-site. 6. A copy of the covenants shall be submitted to the Belgrade City-County Planning Office, and a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval. 7. Fire and road impact fees shall be paid as per County impact fee regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The developer shall be responsible for providing a water supply for fire protection as per Belgrade Rural Fire District requirements. If the Fire Department determines

that nearby fill-sites may be utilized the developer shall be responsible for paying a proportionate reimbursement of the total construction cost of the fill site(s) to the Belgrade City-County Planning Office which will reimburse the entity responsible for maintaining the fill site(s). 11. 45 feet of Thorpe Road north of the centerline shall be dedicated to the public on the final plat for the entire width of the subdivision. 12. The trailer shall be removed from the Kendall Court right-of-way prior to final plat approval. 13. The final plat shall show a no access strip for vehicles along Thorpe Road except at County approved approaches. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. The applicant's representative Lewis Burton pointed out that the applicant has been in contact with the Summit Subdivision concerning the fill site and was prepared to go ahead with that option for fire protection. Mr. Burton also noted that the applicant was in agreement to all the conditions with the reservation of condition #12, which required the porch to be removed from the right-of-way. If it was not to huge of a problem, the applicant preferred that the porch not be removed from the right-of-way. There was no public comment. Further discussion took place with regard to condition #12, and if the applicant could be allotted additional time in order to remove the porch. Since this would be a burden to the applicant, Mr. Burton suggested they put something on that plat, should it be sold in the future. George Durkin, on behalf of the Gallatin County Road and Bridge Department confirmed the Road Department's recommendation. In further discussions with regard to a date certain for removal of the porch, Gallatin County Planning Director suggested that the applicant could bond for the cost to remove the porch. **Finding this proposed minor subdivision is in conformance with the Belgrade Master Plan and the Gallatin County Subdivision Regulations, Commissioner Murdock moved approval with all the conditions, as presented by staff. Seconded by Commissioner Vincent, adding that it meets Section 76-3-608 MCA. None voting nay. Motion carried.**

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Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on continuation of a public hearing and consideration of a request for preliminary plat approval for the Churchill North Major Subdivision. Mr. Johnson noted that on September 17, 2002, the Commission conducted a public hearing for consideration of preliminary plat approval for this proposal. At the closure of the hearing, the applicant agreed to continue the hearing and any action by the Commission until the applicant could provide the Commission with information on how to demonstrate adequacy of water supply for the subdivision. As of October 9, 2002, the applicant had not provided the Planning Department with additional information regarding water supply adequacy for the proposed subdivision. Commissioner Murdock noted that several additional letters were received however public comment was closed. Dennis Foreman the applicant's representative disagreed with Mr. Johnson, and stated that he was of the understanding that Commissioners Mitchell and Vincent wanted to check into the groundwater issue and conduct their own investigation. It was his understanding that they were going to check with Alan English, Manager of the Local Water Quality District. Commissioner Murdock stated that was not his understanding. Further discussion took place with regards to the timing involved in conducting a controlled groundwater study and how this would effect preliminary plat approval. Mr. Foreman reiterated his prior offer to conduct an onsite pump test and monitor adjoining wells. Public comment: John Fowler suggested that the study be conducted and include next spring because of the irrigation. Gene Dykman's impression of the meeting was that they would have time to create a water control district to analysis the water availability in the Churchill area. He believed it was important for this district to be created before the developer's received preliminary plat approval. Mr. Foreman had no objection to the creation of the water quality study however, he added if the developers were asked to participate in the study, they would request preliminary plat approval with one of the conditions of final plat approval being that the water quality district study be completed with proof that there is adequate water for this development. He added that no development would take place until the study was completed. Further discussion took place with regard to how the water quality district would be created. Mr. Johnson stated if additional conditions were added, then the Gallatin County Planning Department would become the property manager for this subdivision. Commissioner Vincent preferred a continuance for 2 weeks in order to review information and time frames. Given adequate water for the long term and no substantial negative impact on current wells, Commissioner Vincent believed this would be a great place for a subdivision. Mr. Foreman confirmed that the applicant would be willing to grant a continuance however, he wanted clarification as to what they were to do. Commissioner Murdock noted that the Commission's concern was about the adequacy of water supply and he believed it would be best for the developer to demonstrate that adequacy before preliminary plat approval. Applicant Marvin Doornbos expressed concern with the community not cooperating with the study, should they be against this development. Mr. Johnson stated that he would work with Mr. Foreman. Commissioner Murdock requested Mr. Johnson to report back with options to create the groundwater control study district, including written guidelines for the process. Action was continued until October 29, 2002, with the consent of the developer. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:22 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 22nd DAY OF OCTOBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:06 A.M., at the City Commission Meeting Room. Also present were County Commissioner Jennifer Smith Mitchell and Acting Clerk to the Board Mary Miller. Commissioner Vincent was on vacation.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

OCTOBER 14-15, 2002

- The Commissioners conducted regular County business.

OCTOBER 16, 2002

- The Commissioners attended a special meeting for the purpose of approving claims and appointing an architect review team for the Architect Request for Qualifications for the Martel Building. In attendance were Commissioners Murdock and Vincent, Auditor Joyce Schmidt, Accounting Clerk Jeannie Brown, Commission Secretary Rose Blaskovich and Commission Assistant Glenda Howze. The Commissioners considered approval of claims listed on the voucher list dated October 11, 2002 including check numbers 8014854 – 8014855; totaling \$219.00. Commissioner Vincent made a motion to approve said claims. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered appointment of an architect review team who will be responsible for identifying a short list of qualified architectural firms for remodel of the Martel Building facility. Commissioner Vincent made a motion to appoint Commissioner Murdock, Grants Administrator Larry Watson, and Finance Office Ed Blackman as the architectural review committee. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

OCTOBER 17-18, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated October 17, 2002 in the amount of \$343,953.64.
2. Contract(s): Continuation of Amendment to Master Contract #1999-021, Task Order 01-07-4-11-120-0 w/City-County Health Department; and Big Sky Asphalt, Inc.-Canary Lane RID #382.
3. Request for Common Boundary Relocation Exemption for David and Adreanna Vaughn located in the NE ¼, SW ¼, of Section 23, T2S, R4E. (80053 Gallatin Road). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Mitchell moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson stated that he received a call from the applicant requesting an indefinite continuance on regular agenda Item #10, public hearing and consideration of a request for reduction of the letter of credit for the Firelight Meadows Subdivision Traffic Mitigation Agreement. Gallatin County Planning Director Jennifer Madgic requested a continuance until

October 29, 2002, when all three Commissioners would be in attendance for regular agenda Item #5, continuation of a public hearing and consideration of establishing a fee for review of conditional use permits in the Bozeman Pass Interim Zoning Regulation.

Jeff Winkford representing the MTI Group of Belgrade High School read the proclamation declaring the week of October 23-31, 2002 as "National Red Ribbon Week", in Gallatin County, Montana. Chairman of Red Ribbon Week, Kimberley Herst presented the Commission with red ribbons. Prevention Education coordinator Mike Clayton on behalf of the Bozeman Public Schools announced a Red Ribbon Rally, to be held at 10:00 a.m. October 30, 2002, at the Willson School. **Commissioner Mitchell moved to approve the proclamation of "National Red Ribbon Week", in Gallatin County the week of October 23-31, 2002. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Library Board of Trustees and Library Directors from Belgrade, Manhattan, Three Forks, and the Bozeman Libraries gave their annual report of services provided to the residents of Gallatin County. The West Yellowstone director was unable to attend because of bad weather. Belgrade Community Library Director Ilene Casey reported on the cooperative efforts of the libraries and the increase in circulation and use by patrons in the last year because of the resource sharing between the Bozeman, Belgrade and West Yellowstone libraries. She added that Three Forks would soon be joining them. She invited the Commission to visit their new addition to the library. Because the West Yellowstone library representative could not attend, Ms. Casey announced their new director was Mary Girard, noting that they too are looking for a larger facility. Bozeman Public Library Director Alice Meister stated that they are working on plans for the new library with an architect and an environmental consultant. Manhattan Library Director Colet Bartow reported on an increase in circulation, noting that the number of patrons exceed the census population of the Town of Manhattan. Manhattan librarian Julie Herdina spoke regarding the activities offered through the library. Three Forks Library Director Jean Nielsen reported that they moved to a larger facility and are now offering expanded hours. She noted that they are actively working towards joining the automated circulation and catalog system with the other libraries. The Commissioners thanked them for their reports. **No action taken.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the FY 2002 final operating budget for increases associated with year-end. Mr. Blackman recommended approval of the resolution. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2002-107. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Mark Chandler, on behalf of C & H Engineering confirmed that the Commission was in receipt of a fax requesting a continuance until October 29, 2002, of the public hearing and consideration of a request for a variance for the Saddle Peak Ranch Major Subdivision. **No action taken.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of an Improvements Agreement for the Spanish Peaks Estate Phase 1 Major Subdivision. Preliminary plat approval was granted August 24, 1999. Phase 1 includes 30 residential lots located in the Big Sky area. The applicant requested that the required condition for construction completion (paving) of the subdivision interior roads and installation of street signs be completed under an Improvements Agreement with Gallatin County. The County Attorney reviewed and approved the Improvements Agreement. As a result of scheduling, Mr. Johnson stated that he would need to make a change to the date in Section 3 of the Improvements Agreement before it was signed. There was no public comment. **On the advice of staff, Commissioner Mitchell moved to approve the Improvements Agreement for the Spanish Peaks Estates Phase 1 Major Subdivision. Seconded by Commissioner Murdock, noting that they were not signing the Improvements Agreement at this time per Mr. Johnson's advice, and noting that the County Attorney reviewed and approved the Improvements Agreement. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of final plat approval for the Spanish Peaks Estate Phase 1 Major Subdivision. Preliminary plat approval was granted August 24, 1999. Phase 1 includes 30 residential lots located in the Big Sky area. Based on the information provided to the Planning Department, Mr. Johnson determined that the applicant completed all the required conditions. There was no public comment. **Commissioner Mitchell moved to approve final plat approval for the Spanish Peaks Estate Phase 1, Major Subdivision, finding it meets the requirements of the Gallatin County Subdivision Regulations, Montana Code, and that they have completed all the conditions of approval according to staff. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of an Improvements Agreement for the River Rock Major Subdivision "The Villas". Improvements to Amsterdam Road are intended to extend from the East Bound I-90 Off Ramp to Thorpe Road, which was determined to be the portion of Amsterdam Road that coincides with the Villas. This was acceptable to the Gallatin County Road Department, and the Improvements Agreement and the letter of credit in the amount of \$144,000, was reviewed and approved by the County Attorney. There was no public comment. **Commissioner Mitchell moved to accept the Improvement Agreement for Amsterdam Road, finding staff, the County Attorney and the Road Department reviewed and approved the agreement, which would apply to "The Villas". Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of final plat approval for the River Rock Major Subdivision "The Villas". Ms. Madgic stated that all the conditions have been met, and that the Gallatin County Road Department and Belgrade Rural Fire Department agree. There was no public comment. **Commissioner Mitchell moved to approve final plat approval for River Rock, "The Villas", finding staff has reviewed it and the conditions have all been met, as required by the Subdivision Regulations and state law. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 10:10 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 29th DAY OF OCTOBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:10 A.M., at the Belgrade City Council Chambers. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

OCTOBER 21, 2002

- The Commissioners attended a special meeting for the purpose of discussing a petition to create a mosquito district. In attendance were Commissioners Murdock and Mitchell, County Attorney Marty Lambert, Clerk and Recorder Shelley Vance, and guests Mike Zell and Bob Dehlendorf. The group discussed the proposed district that would encompass the Riverside area. Commissioner Mitchell made a motion to follow the process for presentation of the petition and have a resolution ready to fix the time of the hearing at the same time as the presentation of the petition, finding that any necessary studies will be completed after the district is created. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell, Commissioner Vincent via conference call for a portion of the meeting, Commission Secretary Rose Blaskovich, Commission Assistant Glenda Howze, and guests Fairgrounds Director Sue Shockley, Fair Board Chairman Greg Rath, Fair Board members

Mike Kelly, and County Attorney Marty Lambert. The Commissioners discussed approval of a letter of support from the Fair board to the Winter Fair Corporation. The Winter Fair Board decided to no longer hold a winter fair. However, they still want to use the building designated for them on Fair grounds property and rent it out for revenue. After discussion with Chief Deputy County Attorney Chris, the Fair Board determined that they could legally ask the Winter Fair organization to vacate the building located on Fairgrounds property. Commissioner Mitchell made a motion to follow County Attorney advise and support the Fairgrounds in making use of the buildings on the property, no longer being used for their initial intended purpose. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a budget transfer request from the Planning Department. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an asset disposal request from the Sheriff's Office or a hand-held radio, destroyed in a vehicle crash. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Commissioners Murdock, Mitchell, and Vincent discussed the Commission's participation on the Systems Assessment committee. Commissioner Vincent stated that she felt the Commission should allow the task force to do the work as recommended by the Criminal Justice Coordinating Council (CJCC) to the County Commission, and delegate the full responsibility of the task force. Commissioner Vincent stated that the task force is representative of both sides of the issue and only one of the Commissioners attended anyway. Commissioner Murdock agreed with these statements. Commissioner Mitchell stated that the first meeting was not set at a time convenient for the Commissioners to attend, and that she is concerned about taking the Commission off as it will also take them out of the interview process. This will provide no avenue for the Commission to have a say in how the assessment proceeds and leaves her with no confidence in the process. Commissioner Murdock stated that he wanted to make sure that the RFP was, as the Commission wanted it to be. Now, however, he is happy with the progress and is more than satisfied to let the task force take it over. Commissioner Murdock also noted that he does not feel the Commission should get in and manipulate and alienate the process or people involved. Commissioner Vincent stated that the Commission does have the final say, the task force is balanced, they are sending out more than 20 RFPs – exploring the full spectrum of options, and it is time to let them do their job. Commissioner Vincent made a motion to remove the three Commissioners from membership on the task force. Commissioner Murdock seconded the motion. In discussion, Commissioner Mitchell noted that she feels this is a big mistake. There needs to be buy-in from all parties, and without at least the participation of one County Commissioner, there is no guarantee of the process. In her opinion, this process does not need to be taken outside of the normal boundaries of an RFP process. Commissioner Mitchell also stated that she feels the process is being manipulated by removing the Commissioners from the process. Commissioner Murdock stated that he feels it is manipulating the process to be on the task force, and that all the process will be done legally. Commissioner Mitchell stated that the Commissioners should rethink their idea of manipulation. The players need to be from all sides, instead of being cut out in order to keep the process from staying on the right track. The question was called, Commissioners Murdock and Vincent voted in favor of the motion. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

The Commissioners considered approval of an asset disposal request from the Missouri River Drug Task Force for a van. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an asset disposal request from the Sheriff's Office for a detective vehicle. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an asset disposal request from the Sheriff's Office for a patrol vehicle. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a resolution authorizing participation in the Intercap Loan Program for the Logan Landfill. Finance Office Ed Blackman joined the meeting at this point. The contract has been approved for the borrowing of money. This document is one of the closing documents for a new liner at the Logan Landfill. Commissioner Mitchell made a motion to approve Resolution 2002-106, authorizing participation in the Intercap Loan Program for the Logan Landfill, in the amount of \$995,000, finding that the General Fund backs this loan if revenue from the Landfill is not sufficient to repay. Commissioner Murdock seconded the motion. In discussion it was noted that this is follow-up to previous action. All voted aye. Motion carried with a vote of two to zero.

OCTOBER 22, 2002

- The Commissioners conducted regular County business.

OCTOBER 23, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell, Planning Director Jennifer Madgic, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. The Commissioners continued the consideration of a contract for floodplain services with Gillilan Associates, Inc. until the meeting on October 28.

The Commissioners considered approval of a request for privileges to charge tipping fees at the Gallatin County Logan Landfill from Northwest Woodworks. Commissioner Mitchell made a motion to approve said request, finding that it has been recommended for approval by Finance Officer Ed Blackman. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners directed Ms. Howze to draft a letter to the City of Bozeman regarding the possibility of a transfer station on Love Lane.

OCTOBER 24-25, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated October 24, 2002 in the amount of \$73,173.80.
2. Approval of Minutes for November 13 and December 11 and 18, 2001; and January 3, 8, 15, 16, 22, 29; February 5, 12, 19, 26; March 5, 12, 19, 26; and April 2, 2002.
3. Approval of Application for Cancellation of Taxes for Parcel Numbers: PPP11956 and PPP9225; totaling \$673.30
4. Request for Common Boundary Relocation Exemption for Phillip and Wanda Smith, Westland Enterprises, Inc.-William Simkins, and TM Land Partners, LP-Deborah McAtee, located in the SW ¼ of Section 31, T6S, R4E and the NE ¼ of Section 1, T7S, R3E, and the SE ¼ of Section 36, T6S, R3E. (Big Sky Spur Road, Big Sky). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Murdock announced that Attorney Susan Swimley representing the RID formation of Lake Subdivision #384, requested that the public hearing on protests filed for the proposed RID and consideration of a resolution to create be continued until later on in the agenda, as she was going to be held up in court. Gallatin County Clerk and Recorder Shelley Vance requested that she be allowed to give her report on the protests. Commissioner Murdock opened the public hearing. Ms. Vance explained that there were two resolutions of intention passed, because the first one had an error in the description of the road. The first notice of the resolution of intention was passed by the Commission and notice of the public hearing and protest period was published in the High Country Independent Press on September 12 and 19, 2002, and mailed to record owners and contract purchasers on September 10, 2002. A correction notice of the resolution of intention was passed by the Commission and notice of this public hearing and protest period was published in the High Country Independent Press on October 10 and 17, 2002, and mailed to record owners and contract purchasers on October 8, 2002. Between the protest period of September 12 and 27, 2002, the Clerk and Recorder's office received 2 letters protesting the creation of RID #384, and between October 10 and 25, 2002, the Clerk and Recorder's office received 1 letter protesting the creation of RID #384 for a total of 3 letters of protest. She believed that Ms. Swimley's advice would be to take into consideration for the creation, all 3-protest letters as legitimate protests. According to statute, written protests against creation of the district and the assessment methodology may be filed by an agent, person, firm or corporation owning real property within the proposed district whose property is liable to be assessed for the improvements. Between those dates there were 3 protests received. The total cost of the improvements is \$170,000.00. Protests were received from owners of property in the district to be assessed a total of \$22,173.00. This constitutes 13 % of the total assessment for the improvements. The remaining part of this consideration was continued until later on in the agenda and will resume when Ms. Swimley is present. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to annex a tract of land located in Section 1, T1S, R5E (more particularly described in the notice) into the Belgrade Rural Fire District. Ms. Vance examined the petition and certified that the petition contained the signatures of owners of 50 percent or more of the privately owned lands who constitute a majority of the taxpayers who are freeholders; and their names appear upon the last completed assessment roll. The Belgrade Rural Fire District Board of Trustees accepted this property for annexation. Ms. Vance recommended that the public hearing date be set for November 26, 2002, should the Commission accept the petition. **Commissioner Vincent moved to accept the petition to annex property into the Belgrade Rural Fire District, and set the public hearing for November 26, 2002. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on receipt of a petition to annex Tract 2 of COS 1560B, located in the SW $\frac{1}{4}$ of Section 32, T2S, R6E into the Sourdough Rural Fire District. Ms. Vance examined the petition and certified that the petition contained the signatures of owners of 50 percent or more of the privately owned lands who constitute a majority of the taxpayers who are freeholders; and their names appear upon the last completed assessment roll. The Sourdough Rural Fire District Board of Trustees accepted this property for annexation. Ms. Vance recommended that the public hearing date be set for November 26, 2002, should the Commission accept the petition. **Commissioner Vincent moved to accept the petition to annex property into the Sourdough Rural Fire District, and set the public hearing for November 26, 2002. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the request for a common boundary relocation exemption for Thomas Langel and Kenneth Vidar, located in the NW $\frac{1}{4}$, NE $\frac{1}{4}$ of Section 22, T2N, R3E. (Deerhaven Road, Gallatin River Ranch). Mr. Scott explained that the claimant's justification for the boundary relocation was to better utilize existing roads and to enhance the property. Both tracts will be used as pasture until sold, and both tracts will be marketed for sale. Although this claim appeared to meet the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act (76-3-201 through 76-3-210 MCA), the Planning Department noted some history, which made it unclear that it meets the criteria for the exemption. Mr. Scott summarized a timeline of events where the claimants were involved in other boundary relocations in this area. Surveyor Don Biehl representing the applicants and Mark Chandler of C & H Engineering were sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Mr. Biehl answered the questions to the best of his knowledge however, he was unable to answer several of the questions. Mr. Chandler added that they were currently working on the sanitation part of the project. There was no public comment. Although, Commissioner Mitchell appreciated Mr. Biehl's attempt at answering the questions, she noted too much information was approximate and unknown. She added that since Gallatin River Ranch never under went subdivision review, it was Commission's obligation to assure the public health, safety and welfare of those that purchased the property. Commissioner Murdock believed there was a pattern of exempt transactions that were for the purpose of evading subdivision review, adding that Gallatin River Ranch with approximately 264 lots should have gone through subdivision review. Commissioner Vincent concurred, noting that this goes beyond the criteria and factors they normally use and consider for boundary relocations that they approve. He also agreed they were lacking information. Mr. Chandler suggested the hearing be continued until Mr. Langel and Mr. Vidar were present. Commissioner Mitchell suggested they could send a list of questions to the applicants for their direct answers. Mr. Chandler commented that this boundary realignment made good sense and added that he did not believe the applicants were setting a pattern of boundary realignments. In addition to answers to the list of questions, Commissioner Vincent requested photos of the area as it is now, and requested that Mr. Chandler explain in his best estimate why it will not work, and then show what will work. Gallatin County Planning Director Jennifer Madgic stated that she was the original planner that worked on the first exemptions as well as this one therefore, a pattern was clearly evident as far as the Planning Department was concerned because within a 2 to 3 year period they had 3 boundary realignments within this area. She added that the lawsuit of Meken vs. Gallatin County set off further scrutiny and the fact that numerous boundary realignments was declared an evasion. The Commission was in agreement to continue action indefinitely at the request of the applicant's representative. **No action taken.**

Gallatin County Planner Christopher Scott reported on the request for a common boundary relocation exemption for Kenneth Vidar and Thomas Langel (Meken Corp. & Hill Country, Inc. dba Gallatin River Ranch) and Thomas C. and Sharon D. Andrews, located in the SE ¼, NW ¼ of Section 22, T2N, R3E. (High Meadow Road, Gallatin River Ranch). Mr. Scott explained that the claimant's justification for the boundary relocation was to convey enough acreage to the Andrew's, the owners of Tract 40 and making the parcel 20 acres, so they can receive a property tax reduction. It was the Andrew's understanding when they purchased the property that it was a 20-acre parcel, and upon further investigation it was found to be less than 20 acres. The Andrew's intend to retain Tract 40A as open space and Tract 40 as their residence. Based on review and past history in this area, Mr. Scott stated that this claim did not appear to meet the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act. (76-3-201 through 76-3-210 MCA. Mr. Scott noted that they were only moving the lot line and not changing the orientation of the line. He added that because of the topography, Lot 40A was not a build able tract. Thomas Andrews, representing himself and Mark Chandler with C & H Engineering on behalf of Mr. Langel and Mr. Vidar were sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. To the best of his knowledge, Mr. Andrews was able to answer questions that pertained to his situation however, several questions that could only be answered by Mr. Langel and Mr. Vidar went unanswered. There was no public comment. Although Commissioner Murdock expressed sympathy for Mr. Andrews, he was of the opinion that Mr. Andrews was caught up with a development scheme that should have gone through subdivision review. He suggested a continuance until they could confer with Mr. Langel and Mr. Vidar. Commissioners Mitchell and Vincent concurred. Mr. Andrews believed that it was unfair to him as an individual taxpayer to be caught up with the Gallatin River Ranch problems, that he felt he was no part of. Commissioner Mitchell requested that Mr. Andrews bring pictures of his development and provide as much information as he could to provide a basis to clearly delineate this application from the rest the area. Commissioner Murdock suggested that he contact the Planning staff regarding some ideas on how to differentiate his situation. The Commission continued action indefinitely. **No action taken.**

Attorney Susan Swimley reported on the public hearing on protests filed for the proposed Lake Subdivision RID #384, and pointed out that today's consideration of a resolution was for the creation of RID #384, rather than the resolution of intention, which the agenda indicated. Ms. Swimley reiterated the report given by Gallatin County Clerk and Recorder Shelley Vance on the protests. Although the Commission does not rule on letters of support, she noted letters of support were also received. Public comment: Robert Remer (support) spoke regarding benefits of the improved roadway and maintenance; and Donna Driver (opposition) stating concern with increased speed, incurred costs, and added that an owner was subdividing a lot which is not included in the proposal. As owner of the lot in question, Mr. Remer commented that he was in favor of adding the lot however there was a Catch 22 of which he was caught in. Ms. Swimley explained the Catch 22 issues regarding the Remer Minor Subdivision where Mr. Remer could not get final plat approval without paving the road or spending money to bond for the paving of the road in anticipation of the RID going through. He had no guarantee that the RID would go through and could have been left with paving the whole \$170,000 dollar road. After several months of working on this and finding no legal way to bring this lot in, she was directed through the president of the homeowners association to proceed with the 23 lots. Mr. Remer's assessment will be split between his two lots and the additional lot will be part of the maintenance. **Commissioner Vincent moved to approve Resolution #RID-02-384C. Seconded by Commissioner Mitchell. Noting that RID's are grass roots democracy, Commissioner Murdock acknowledged the concerns of Ms. Driver with regards to increased speed adding that there was some merit to her concern but he could not stand in front of the majority of the neighborhood that wishes to improve its roads. With regard to the cost analysis, Commissioner Mitchell added that per the Road Department it does not take very many years of dust control to pay for the same amount of money they could spend for paving and it lasts longer, is easier to maintain, and cheaper in the long run. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a request for a family transfer exemption for Jeff Baker located, in the NW ½ of the SW ¼ of Section 34, T1S, R4E (6465 River Road, Bozeman). Mr. O'Callaghan explained that the claimant will continue to use Tract A1 as his primary residence and the recipient of Tract A2 intends to build a home to be used as his primary residence. The parcel was affected by a Mortgage Exemption, which was reviewed and approved by the County Attorney. Jeff Baker was sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Further discussion took place

with regard to Mr. Baker's comment that he purchased his property through a family transfer. Gallatin County Planning Director Jennifer Madgic and Deputy County Attorney Kate Dinwiddie both confirmed that there was no legal restriction precluding the Commission from granting family transfers created by family transfers. Mark Chandler, on behalf of C & H Engineering clarified that the property Mr. Baker purchased was surveyed prior to 1993, and he did not believe they used the family exemption because it was 20 acres. There was no public comment. **Given the advice of Ms. Dinwiddie, Commissioner Mitchell moved to approve the Baker family transfer exemption, finding from the testimony that the applicant does not appear to be evading the subdivision regulations. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on continuation of a public hearing and consideration of a request for a variance from the Road Design Standards of the Gallatin County Subdivision Regulations on behalf of C & H Engineering and Tayabeshockup, Inc. for the Saddle Peaks Ranch Major Subdivision, located in Section 1, T1S, R5E, PMM, Gallatin County, Montana. The property is located southwest of the intersection of East Baseline and Walker Roads. The proposed subdivision is within the Middle Cottonwood Zoning District, and includes 41 residential lots and 262 acres of common open space. Preliminary plat approval was granted December 18, 2001 and the subdivision was given final plat approval on July 30, 2002. The applicant submitted a formal petition requesting a variance from completing the interior road construction for the two sections of road, which extends to adjacent properties to the west and south. Condition #14 of the December 18, 2002, Findings of Fact and Order granting preliminary plat approval for the subdivision required the subdivider to construct all interior roads to county paved standards, as required by the Gallatin County Subdivision Regulations. The subdivider fulfilled his requirement by entering into an improvements agreement with Gallatin County for completion of the interior subdivision roads. Section 7.A.2 of the Gallatin County Subdivision Regulations requires rights-of-ways to be provided and roads be constructed to adjacent un-subdivided lands. The County Commission must make a determination as to whether or not the requested variance should be granted. According to Section 13 of the Gallatin County Subdivision Regulations, the County Commission may grant reasonable variances from the design and improvement standards of the regulations where it is found that strict compliance would result in undue hardship and is not essential to the public health, safety, and general welfare. Mr. Johnson pointed out that the Subdivision Regulations require subdivision roads to extend to the boundaries to create neighborhoods and continuation of future development, otherwise all subdivisions would end in cul-de-sacs. The road would provide alternate means for emergency providers so that they have other means to gain access to adjacent subdivisions. He noted the applicant was asking to not be required to construct the road however, the right-of-way would remain in place. Mr. Johnson added that in the future this could create a problem. Further discussion took place with regards to access for adjacent tracts and who would be responsible for the paving. Pointing out there was nothing prohibiting development on the properties to the west and south; Commissioner Mitchell noted that they were both capable of coming in with the same opportunities as the Saddle Peak Subdivision. Commissioner Mitchell stated the only hardship she could find was financial, and financial did not qualify as criteria. Mr. Johnson replied that was standard and common practice with all variance requests. Mark Chandler, on behalf of C & H Engineering explained one of the reasons for the request was because the two roads do not go anywhere and there was a possibility they would not be used for along time or maintained. Developer Bill Muhlenfeld reported that all the other improvements were complete, and this was the only one outstanding. He stated the primary reason, as a developer for not paving the roads was ambiance, because the adjacent parcels are 20-acres and the roads would not be used and would deteriorate over time. There was no public comment. Commissioner Mitchell did not believe there was a hardship to be determined, adding if financial and ambiance was such a bad situation the developer should have asked for the variance upfront, rather than after the fact. She added that the Fire Department and the Road Department needed the roads. Commissioner Mitchell could not support the request and commented that she wished all the developers would stop asking for it. Commissioner Vincent questioned if there would be any way to keep this in a right-of-way and commit the Saddle Peaks Subdivision to pave it when and if there is development adjacent to the property. Commissioner Murdock pointed out that they have done it before however he did not think they needed these two accesses for emergency purposes. He preferred that the developer ask that the roads be abandoned. Commissioner Mitchell stated the distance of the main road was extensive. The possibility of having Saddle Peaks Ranch set aside funds to pave the roads was discussed. Mr. Johnson noted that currently the applicant has posted funds to pave the roads however he did not believe it would be possible for the developer to pave them in the future because once all the lots are sold then the homeowners association would be required to pave roads for access to adjacent subdivisions. Further discussion took place with regards to requiring the developer to have the roads built to gravel standard. Mr. Muhlenfeld stated his willingness to work with the County however he preferred not to pave them and reiterated that the request seemed unusual to pave roads that lead nowhere. Commissioner Vincent commented that he could compromise to a gravel standard however until that policy is changed they needed to stick with the

regulations. Commissioner Mitchell motioned to deny the variance as requested, finding it does not meet the criteria of undue hardship, and looking to the future these accesses would be essential to public health, safety and welfare. For the purposes of a vote, Commissioner Vincent seconded the motion, adding that he preferred to pursue the gravel standards. Commissioner Mitchell stated that she wanted her comments to be considered as part of the findings, noting this is a requirement of the Subdivision Regulations, the Fire Department and the Road Department needs the roads, and the future is now. Given all the development applications in this area, she anticipated at some point in the future these roads would be needed. She stated that there are legal reasons meeting the hardship criteria and she wanted to send the message that there needed to be a real valid reason for requesting a variance such as this one. Mr. Muhlenfeld commented that they did intend to ask for the variance upfront and it was an oversight of their engineer. George Durkin on behalf of the Gallatin County Road Department questioned who would pay to pave the road if they went with gravel standards. He did not think it was fair and should be done by the original developer. Commissioner Vincent stated that he would support the motion, adding that he did not believe the request met the criteria and would be contrary to policy and legally they had to do what they had to do. Commissioners Mitchell and Vincent voting aye. Commissioner Murdock voting nay. Motion carried.

Gallatin County Planning Director Jennifer Magic reported on continuation of a public hearing and consideration of establishing a fee for review of Conditional Use Permits (Oil and Gas Applications) in the Bozeman Pass Interim Zoning Regulation. On July 30, 2002, the Commission passed a resolution adopting an interim-zoning district in the Bozeman Pass Area for the purpose of regulating oil and gas production and development (amended August 27, 2002). Section 7 of the Regulation specifies that the Commission establish an application fee after a hearing and proper notice. Notice of the August 27, 2002, hearing before the Commission was published in the High Country Independent Press on August 8 & 15, 2002; and in the Bozeman Daily Chronicle on August 11, 2002. The Commission subsequently continued discussion of the issue until October 22, 2002. The Planning Department received a number of letters on the issue from the following: (Frost, Read, Eggert, Hopkins, Biel, McGrath and email from Hall). Based on review of the original and subsequent J. M. Huber application, Gallatin County Attorney Marty Lambert suggested setting an application fee of \$50,000.00 to cover costs associated with internal review as well as review from third-party consultants/experts. It was suggested that the County could hire the following experts to assist in reviewing an oil and gas permit: hydrologists, geologists, economists, wildlife biologists, soil scientists, petroleum engineers, and attorneys. Based on the following calculations, the Planning Department estimates that the average oil and gas application could cost the Planning Department at least \$7,200.00 to \$10,000.00. Ms. Madgic spent a minimum of 20 hours a week on issues relating to coal bed methane over a three-month time period in 2001, for a total of 240 hours. At \$60/hour, the cost to the County (Planning Department) was approximately \$14,400.00 to process two CMB applications (J.M. Huber submitted an application in August, which was withdrawn, and another application in October, which was heard in January 2002). If it takes one-and-a-half months to process an average CUP, and oil and gas consumes a minimum of 20 hours a week (based on one staff person), the cost to the Planning Department would be approximately \$7,200.00. This does not include time spent by other Planning Department staff members, other County staff, or ancillary costs such as copying charges, public hearing room rentals, use of County vehicle for inspections, phone, and fax charges, etc. Adding ancillary costs (not including time spent by other County staff), an oil and gas application may cost the Planning Department closer to \$10,000.00. The Planning Department charges a variety of fees depending on the application. The charge for a standard conditional use permit application is \$250 (minor CUP) or \$500 (major CUP). Review of the J. M. Huber applications consumed far and beyond the time typically spent on a standard CUP application, or for that matter any other application (including subdivisions). The highest fee charged by the Planning Department is \$5,000.00 for an amendment to a policy document, or \$9,800.00 charged for preliminary plat review of a major subdivision with 300 lots. Ms. Madgic summarized comparisons she made with counties in other states with regard to different fees charged for CUP's. In conclusion, Ms. Madgic recommended an initial fee of \$10,000.00 to \$15,000.00 to cover Planning Department time. Additional requirements could be added as conditions of approval (such as studies addressing cumulative impacts). The County always has the option of adjusting its fee schedule if a fee does not reflect time and effort spent. Ms. Madgic suggested they require a localized Environmental Assessment that could be added to the fee schedule or initial requirements to cover everything which they could glean additional information. Public comment: Melissa Frost on behalf of the Greater Yellowstone Coalition reported that they support reasonable fees to cover the cost to the county for processing oil and gas development applications, adding that it is not the duty of the county or citizens to subsidize industries cost of doing business. Ms. Frost reported to the Commission how they and several others pooled their monetary resources to focus on J. M. Huber's applications to the benefit of the county. Further discussion took place with regards to charging additional fees above and beyond the initial fee. Commissioner Murdock recommended approving a \$10,000 fee, and to continue ongoing review of a more adequate application fee. Ms. Madgic reminded them that they do have a CUP regulation in place,

which has a number of requirements close to being EA type requirements. Commissioner Mitchell concurred, stating that she would support at least a \$10,000 fee, assuming fees could be rebated if not used. Commissioner Vincent expressed concern, stating he would be more comfortable with a \$25,000 fee with a rebate revision to cover staff time, noting that \$15,000 would be the minimum. He also wanted to include in the language that it could be up to \$250,000 for a site-specific community wide economic analysis and up to \$250,000 for a site specific and community wide environmental impact assessment. He believed that would offer the protection needed, noting the economic impacts were not just site specific they were community wide. **Commissioner Mitchell motioned to start the initial fee of \$15,000, to cover the Planning Department's time, with hopes they will follow up with a more refined proposal that would include hourly rates and other costs they can foresee that might occur and that could be charged to the applicant as needed. Seconded by Commissioner Vincent. In support of the motion, Commissioner Murdock concurred with Commissioner Vincent although he was not sure they could do what was suggested, at the application stage. Commissioner Vincent stated that he was comfortable as long as the money could be charged through the CUP process or the application to cover additional costs if needed in order to make a legal decision. Ms. Madgic stated that she would take the suggestions from today's discussion to the Planning and Zoning Commission in November and report back in two weeks. None voting nay. Motion carried. This action would be effective immediately.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on continuation of a public hearing and consideration of a request for preliminary plat approval for the Churchill North Major Subdivision. The proposed subdivision application includes 58 residential lots (51 single-family, 7 multi-family) and 2.5 acres of dedicated parkland. The property consists of two existing parcels totaling approximately 42 acres, and is described as a tract of land being Lot 4A of Minor Subdivision No. 230B and Lot 5A of Minor Subdivision No. 230A, located in the NW ¼ of Section 13, T1S, R3E, PMM, Gallatin County, Montana. The proposed subdivision is located west of the Manhattan Christian High School, in the community of Churchill. In summary, Mr. Johnson explained the reason for the continuance was based on discussions regarding water availability and impacts that this subdivision may or may not have on adjacent property owners in the Churchill area. At the direction of the Commission, he met with Scott Compton of the Department of Natural Resources and Conservation to discuss what would be involved with a controlled ground water area process and regulations. In an approach to better address water availability, water management, water supply and water sustainability, it was noted through the applicant's representative Dennis Foreman that their intent was to do a central water system versus individual wells. Mr. Johnson was of the understanding that if the applicant chose to move forward they would have a couple of central supply wells that would produce an excess of 35 gallons per minute, which would require application submittal and permit approval from the DNRC for a beneficial water use permit. Although public comment was closed, the Commission requested to hear from Mr. Compton and others from the community to specifically address the controlled ground water aspect. Mr. Compton pointed out differences in the two processes for individual wells versus the central water system. With regards to the central water system, he added that they are about one year out in reviewing applications and about 6 months with a ground water study process, as they are prioritized as a water management issue. Gene Dykman commented that the decision to have a central water system laid to rest a considerable amount of their objections regarding water however there were still the following issues: written approval for MDOT confirmation for adequacy of existing approaches; the paving of Flying Eagle Way and Pleasant Street; mitigating impacts of Churchill Equipment barrier; and mitigating impacts with Amsterdam School. John Fowler on behalf of the Amsterdam School commented that it would be nice if the developer contributed to the school. Mr. Foreman concluded if they got the approval they would do a cost analysis and if it was feasible they would do it, and if not they may come back with 20 acre parcels. Mr. Johnson commented that mitigation for the school, adequacy of approaches, and paving were already included in the conditions. He suggested adding the following conditions to be renumbered: * A beneficial water use permit shall be obtained from the Department of Natural Resources and Conservation; and * A central water and sewer system shall be installed. He suggested the following change: condition #18, insert "and water", after the word sewer. Further discussion took place with regards to the fence that was requested by Churchill Equipment in order to protect children from entering their property and being injured. Mr. Johnson questioned if the Commission wished for the applicant to install a fence that was not contiguous with the subdividers boundary. Mr. Dykman agreed it was not fair for the developer to fence more than their adjoining boundaries. It was agreed to add the following condition to address the fencing issue: * The subdivider shall install a fence on that portion of their property that is contiguous only. Mr. Johnson pointed out that it would be up to the Commission regarding condition #23, the sheriff mitigation. Commissioner Murdock reiterated that this area has been encouraged for development by the adopted Master Plan and he believed with the new conditions they could mitigate any specific concerns. He was hesitant to adding a condition for the school district mitigation, because he was worried about setting a precedent, noting that the schools already receive money through property taxes. Mr. Fowler reiterated how important this would be to the school and requested the developer to at least talk with them. Commissioner Mitchell concurred with all the other conditions and removal of the sheriff's protection mitigation.

Commissioner Mitchell moved to approve preliminary plat for the Churchill North Major Subdivision, with all the conditions as amended, added and subtracted during this meeting and per staff, finding with those conditions this subdivision proposal will meet the statue requirements, Gallatin County Subdivision Regulations and the Master Plan for future growth. Seconded by Commissioner Vincent. Mr. Foreman was in agreement with all the conditions. Stating he would support the motion with one caveat, Commissioner Vincent noted that the letter from the sheriff changed although he still had reservations about the ability to provide law enforcement. However since this project would be phased and near the Amsterdam area he believed he could over look it. None voting nay. Motion carried.

The Commission recessed for lunch.

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a resolution on intention to adopt the Belgrade Area Transportation Plan. The Belgrade City-County Planning Board and the Belgrade City-Council reviewed and recommended adoption of the Transportation Plan. Phil Forbes on behalf of Morrison-Maierle gave a brief summary and slide show of the Belgrade Area Transportation Plan and proposed improvements, identified the study areas, and pointed out the boundaries. Those improvements were labeled as follows: Improve Main Street from Jackrabbit west; Eastside by-pass; widen Amsterdam Road from the off-ramp west; airport interchange; and recommendation for a pedestrian/bicycle path from Belgrade to Bozeman. The entire presentation will be presented at the public hearing on December 10, 2002. Public comment: Nadia Beiser spoke in support. **Commissioner Vincent moved to approve Resolution of Intention #2002-108, and setting the public hearing for December 10, 2002. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a resolution to amend the Belgrade Area Plan. The text amendments were attached (Exhibit "A", text change to the Future Land Use Map to clarify the intent of the area (colors) boundaries. The test amendments are to be inserted after the third paragraph on page 27 of the Belgrade Area Plan & Exhibit "B", amended Future Land Use Map in the Belgrade Area Plan). Public comment: Nadia Beiser spoke in support. **Commissioner Mitchell moved to approve Resolution #2002-109, finding they gathered public input and adjusted it as a result of that. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request to correct final plat and a variance for required road width for a two lot minor on behalf of Lewis Burton and Associates for the Andres Minor Subdivision, located east of Belgrade on Airport Road, west of the Springvale Subdivision. The property is described as the E ½, W ½, NE ¼, SE ¼ of Section 4, T1S, R5E, PMM, Gallatin County, Montana. Final plat approval was granted on January 29, 2002. Mr. Karp explained that due to an oversight the final plat was filed without properly dedicating the access road to the public or as a public easement. As a result of that there was a letter from Chief Civil County Attorney Chris Gray, dated August 26, 2002, addressing the matter, attached to the staff report. The oversight was discovered when an adjacent landowner to the west sought to develop a minor subdivision (Omdahl Minor Subdivision) that would rely on the Andres Minor Subdivision road for access. Burton and Associates submitted a corrected plat showing the access road (Eze Street) as a 40-foot wide public easement. The applicant requested a variance from the Gallatin County Subdivision Regulations Section 7-Table 1 that requires a minimum 60-foot right-of-way width for minor roads. With development of the adjacent Omdahl Minor Subdivision, Eze Street would provide access to 5 lots with no possibility for future expansion to unsubdivided property to the north. The Gallatin County Commission granted a variance for road right-of-way width within the Belgrade City-County Planning Jurisdiction on two previous occasions. Section 13-E-2 addresses corrections and material alterations of recorded final plats: Material Altercations: Amendments that materially alter the final plats or any portion thereof, shall be made by the filing of an amended plat showing all alterations. The amended plat shall be approved by the Commission under the major or minor subdivision procedure as is appropriate. Prior to such approval, the amended plat shall be reviewed by the Planning Department. The Commission may not approve an amendment, which will place the plat in non-conformance with the standards contained herein unless a public hearing is held on the plat and a written variance from the standards issued pursuant to procedures contained herein for such variance. The Commission needs to make the following determination: A determination as to whether or not to grant the requested variance from the road width; and a determination as to whether or not the proposed corrected plat meets the requirements of Section 76-3-608 MCA and the Gallatin County Subdivision Regulations. Further discussion took place with regards to Mr. Gray's letter, of which the variance was not an option. The applicant Jerome Andres stated that he did read the conditions of approval however, he did not realize the

road would be a public access. He believed a 40-foot easement would be more than adequate. Attorney Susan Swimley as the Omdahl's representative stated that in their application they relied on the fact that the 60-foot right-of-way on the Andres Minor Subdivision was their connection to a public road. The Omdahl's were precluded from finalizing their subdivision because they could not get Mr. Andres to agree to dedicate this portion of the road to the public. Ms. Swimley did not see any criteria to meet the variance requested by Mr. Andres. The Omdahl's preferred to have the dedication on the plat however that was not offered so they would like to have the easement signed and filed so they can connect to a public road. She pointed out that the previously granted variances were for roads that only served two lots, unlike this situation. She noted if this 40-foot variance were granted that the Commission would be perpetuating a 40-foot road easement on the Omdahl's property and they would have to come back so their road would match. Public comment: Pat Omdahl stated that the road was not in accordance to the Subdivision Regulations. She did not have a preference as to the easement being 40 feet or 60 feet however, she reiterated that it would be serving a 5-lot minor subdivision and there was a possibility there could be more. Mr. Andres commented on several other roads they could use to get to that property. Public comment was closed. George Durkin, on behalf of the Gallatin County Road and Bridge Department commented that the Omdahl's dedicated 60 feet and it only made sense to keep them the same. He also pointed out the importance of having the road width to accommodate emergency service vehicles. From a health and safety standpoint, Mr. Karp stated that a 40-foot road width would still accommodate emergency vehicles. Commissioner Murdock stated that he was not in favor of granting a variance and he believed it should remain 60 feet, adding that it was very clear, as well as a condition of approval, and that the Omdahl's relied on the 60 feet when they came in with their application. Commissioners Mitchell and Vincent concurred. **Commissioner Mitchell moved to deny the Andres Minor Subdivision variance request for the 40-foot right-of-way. Seconded by Commissioner Vincent. Commissioner Murdock added that he did not see a hardship and the Omdahl's relied, as did others in good faith on a public process, which had a 60-foot right-of-way. He added that there are reasons for a 60-foot right-of-way and there was no testimony as to why reducing it to 40 feet would be in the public's interest. Commissioner Mitchell added Mr. Gray's letter as part of the findings. Commissioner Vincent added the finding that the proposed corrected plat does not meet the requirements of 76-3-608 MCA and the Gallatin County Subdivision Regulations. None voting nay. Motion carried. Ms. Swimley questioned if there was a process to secure a signature for the 60-foot easement. Commissioner Murdock questioned if they could take any other action. Ms. Swimley stated that the Commission could not however, she requested that the Commission give the easements back to Mr. Karp because until Mr. Andres signs and files it, he has not complied with his final plat conditions.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for preliminary plat approval for C & H Engineering on behalf of High K LLC for the Royal K Major Subdivision consisting of 9 lots on 10 acres. The subdivision is located west of Belgrade off Doe Road. The property is described as the amended plat of Lot 2A of Minor Subdivision No. 274A situated in the NE ¼ and the SE ¼ of Section 4, T1S, R4E, PMM, Gallatin County, Montana. The Belgrade Planning Board reviewed and unanimously recommended approval at their September 30, 2002, public hearing. No variances were requested. Mr. Karp briefly summarized the staff report that contained staff findings and criteria for the Commission to evaluate for considering the subdivision, along with highlighting the suggested conditions. The Gallatin County Commission needs to make the following determination: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds.

b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.

c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. The Homeowners Association shall be responsible for the maintenance of Bambi Court. e. The Homeowners Association shall participate with the other applicable lot owners associations for the shared maintenance of Doe Road. f. A Homeowners Association shall be established. g. No more than two large animals (horses, cows, llamas) are permitted per 5 acres. h. There shall be a 50-foot rear yard setback on the north property line of Lots 3, 4, and 5 where no buildings are allowed to be located. *(the Planning Board recommended that this covenant may be replaced by a covenant stating that Lots 3, 4, and 5 be used for residential purposes only).* i. The homeowner's association shall participate with the owners of the High K Ranch Minor Subdivision for the maintenance of the fill-site. j. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights. k. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.

6. Two copies of the covenants shall be submitted to the Belgrade City-County Planning Office, and a copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants and certificate prior to final plat approval.

7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations.

8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.

9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.

10. Road names shall be approved by the Road Office, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office.

11. Bambi Court shall be a sixty-foot right-of-way, and shall be constructed to Gallatin County standards with a cul-de-sac or "T" type turnaround at its north end.

12. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval.

13. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done.

14. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights.

15. The developer shall pay a cash-in-lieu of parkland donation in accordance with Section 6-G of the Gallatin County Subdivision Regulations. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Developer Nadia Beiser stated that this development was in response to public demand of larger lots for commercial uses. She was not particularly fond of the road name Bambi and stated she may come back with another road name. Ms. Beiser questioned if the Planning Board discussed the intent to phase the development, as she did not attend the hearing. It was her intent that Phase 1 would include Lots 1, 2, 8, and 9 because they all have frontage on an existing road and, and Phase 2 would be the rest of the interior lots that would depend on construction of the cul-d-sac. Mr. Karp stated he did not see the phases on plat. Commissioner Murdock suggested taking a recess so the phasing could be worked into the conditions. Mr. Karp reiterated that Lots 1, 2, 8, and 9 would be Phase 1; Phase 2 would be Lots 3, 4, 5, 6, and 7; and he added the following statement to the conditions with regards to phasing: Unless otherwise noted the conditions shall be completed prior to Phase 1, and the following conditions would apply only to Phase 2- conditions 5d, 5h, 10, 11, and 12. It was noted that the "GIS Office" would replace the words "Road Office", in condition #10. All other conditions would be completed prior to final plat approval of Phase 1 and Phase 2. Ms. Beiser suggested condition 5h read as follows: The 50-foot setback on the north boundary would apply for all non-residential buildings. There was no public comment.

Commissioner Vincent moved to approve the Royal K Major Subdivision with the conditions as stated and amended by the comments of the applicant and the Planner, finding it is consistent with 76-3-608 MCA and the Belgrade Master Plan. Commissioner Murdock confirmed that the motion included Ms. Beiser's suggested language for condition #5h. Seconded by Commissioner Mitchell, finding they are of the understanding there was to be 2 phases and the conditions will reflect such. None voting nay. Motion carried.

There were no pending resolutions. There being no further business the meeting was adjourned at 3:24 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 12th DAY OF NOVEMBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:12 A.M., at the Manhattan High School Activity Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

OCTOBER 28, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell, Planning Director Jennifer Madgic, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. The Commissioners considered a decision regarding the expenditure of funds for ads in various publications per the recommendation of the Task Force for the Systems Assessment. Commissioner Murdock made a motion to approve the recommendation of the Task Force for publication of the Systems Assessment RFQ. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a contract with Gillilan Associates, Inc. for floodplain services. The contract has been reviewed by both Chief Deputy County Attorney Chris Gray and Finance Officer Ed Blackman. The money to fund the contract is in the Planning Department budget. The cost is \$650.00 per project. Commissioner Mitchell made a motion to approve said contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered authorization of the chair to sign a letter to Judge Salvagni asking that three disinterested citizens be appointed for review of the Martel Low Rise appraisal. Commissioner Mitchell made a motion to approve said authorization. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Commissioner Murdock made a motion to close the Commission office on Friday, the day after Thanksgiving, finding that employees have indicated a willingness to take a comp day or vacation day. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

OCTOBER 29, 2002

- The Commissioners conducted regular County business.

OCTOBER 30, 2002

- The Commissioners attended a special meeting to discuss lobbying services with former Senator Don Hargrove. In attendance were Commissioners Murdock and Vincent, Senator Hargrove, and Commission Assistant Glenda Howze. After discussion regarding services that would be provided, Commissioner Vincent made a motion to authorize and appropriate \$10,000 for Gallatin County lobbying services from Don Hargrove. The monies will come from PILT and be set aside in the lobbying budget for salary and expenses. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Road and Bridge Superintendent Lee Provance, Finance Officer Ed Blackman, Grants Administrator Larry Watson, Chief Deputy County Attorney Chris Gray, Commission Secretary Rose Blaskovich and Commission Assistant Glenda Howze. Also in attendance was guest Nick Gevock, Bozeman Daily Chronicle. The Commission discussed the potential for Bozeman to place their transfer station on Love Lane. Concerns raised included: inadequate infrastructure to support increase in traffic, impact on other roads such as Baxter Lane, Durston Road, Hulbert East Road, etc., portions of Love Lane are road-by-use, impacts on Sunshine Subdivision, jurisdiction of right-of-ways, encroachment permits, lack of planning for the future –

especially in coordination with the County's plans for a solid waste district, and inaccurate numbers gathered for their statistical reports. Mr. Provance reported that in order for Love Lane to work in this capacity, there must be a comprehensive traffic study at build out of all approved subdivisions in the area. Also, funds must be secured for infrastructure needs. No decisions were made, as currently it lies in the hands of the City Commission.

OCTOBER 31, 2002

- The Commissioners attended a regularly scheduled finance monthly meeting, which convened at 11:25 a.m. In attendance were Commissioners Murdock and Mitchell, Finance Officer Ed Blackman and Realtor Mike McKenna. Commissioner Vincent joined the meeting at 11:45. Commissioner Mitchell made a motion for the county to proceed with the purchase of the South 2 suites of the low rise Martel Building with an option on the North suites. Commissioner Murdock seconded the motion. In discussion it was recognized that the CIP Committee has recommended delaying the purchase, however they recognize that the County Treasurer/Motor Vehicle Department, District Court Public Defenders, Open Lands Board Coordinator, Enforcement Officer and Planning Department have need for additional space. All voted aye. Motion carried with a vote of two to zero.

Mr. Blackman and Mr. McKenna gave the Commission an update on their meeting with Mr. Planalp for the purchase/lease of the current building occupied by the Office of Public Assistance and City/County Health-Human Services Department. The Commission authorized continued negotiations since the county will need the space within the next 20 years. The Commission places a restriction on the amount they are willing to pay that must consider current value less cost to upgrade systems for efficiency.

Commissioner Murdock and Mr. Blackman presented the results of the architectural interviews. The committee received 8 responses to the Request for Qualifications. The members of the committee reviewed all proposals and identified 3 firms that due to their qualifications as state in the information provided would be interviewed. The chosen firms are CTA, Prugh and Lenon, and Taylor, Hanson, Kane. The committee held structured interviews with each firm given 45 minutes. The results of the interviews were: Taylor, Hanson, Kane were chosen as the top by two committee members. Taylor, Hanson, Kane and Prugh and Lenon were tied by one member. The Commission discussed the top two firms. Commissioner Murdock made a motion to hire Taylor, Hanson, Kane Architects. Commissioner Mitchell seconded the motion. Commissioners Mitchell and Vincent voted in favor of the motion. Commissioner Murdock voted nay. Motion carried with a vote of two to one.

Mr. McKenna updated the Commission on the land under negotiations for a new road shop. Road and Bridge Superintendent Lee Provance is in favor of the proposal. The estimated cost for the 50 acres would be \$327,770. The Commission authorized Mr. McKenna to proceed with negotiations.

NOVEMBER 1, 2002

- The Commissioners conducted regular County business.

NOVEMBER 4, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Grants Administrator Larry Watson, and Commission Secretary Rose Blaskovich. The Commission discussed the Bozeman Transfer Station selection process. The City is scheduled to make their selection on November 12. A letter will be submitted to the City for their consideration. Mr. Provance, Mr. Blackman, and Mr. Watson agreed to provide input from their various perspectives. The final letter to the Commission will ask that a decision be put off until the Joint Commission meeting is held on November 25. No decisions were made at this meeting.

NOVEMBER 5, 2002

- The Commissioners conducted regular County business.

NOVEMBER 6, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Finance Officer Ed Blackman, Grants Administrator Larry Watson, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. The Commissioners considered approval of CDBG Loan documents with Big Sky Provision. The loan documents are with American Land Title, Co. Commissioner Mitchell made a motion to authorize the signing of said loan documents, finding that this has been previously approved in a public meeting. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

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The Commission considered approval of a claim listed on the voucher list dated November 1, 2002, including check number 8015385; totaling \$200,000. Commissioner Mitchell made a motion to approve said claim. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of claims listed on the voucher list dated October 31, 2002, including check numbers 8015116-8015384; totaling \$235,522.85. Commissioner Mitchell made a motion to approve said claims. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a request from the Four Corners Advisory Council to have Terry Threlkeld, Allied Engineering, attend their next meeting at a cost of \$110.00 per hour for a maximum of two hours. Commissioner Mitchell made a motion to approve said request at the amount of \$110.00 per hour as a third party advisor, not to exceed two hours. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of an emergency shelter grant contract with HRDC. The monies are passed through Gallatin County from a CDBG grant to HRDC. The match comes from HRDC. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the signing of a Statement of Work for FY 03, for DES and related documents. Commissioner Murdock made a motion to sign said documents. Commissioner Vincent seconded the motion. Commissioners Murdock and Vincent voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

The Commissioners considered approval of a letter appointing Jason Schrauger as agent for the Gallatin County Pre-Disaster Mitigation project. Commissioner Vincent made a motion to approve said letter, pending the drafting of a corresponding resolution. Commissioner Murdock seconded the motion. Commissioners Murdock and Vincent voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

NOVEMBER 7, 2002

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Murdock and Vincent, Accounting Clerks Jeannie Brown and Liana Bennett, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. Commissioner Murdock made a motion to approve a claim listed on voucher listed dated November 4, 2002 including check number 8015386; totaling \$288.50. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

NOVEMBER 8, 2002

- The Commissioners conducted regular County business.

* * * * *

- Landfill Revenue for October 2002: \$92,469.46
- Payroll for October 2002: \$1,164,104.27.
- Clerk & Recorder's Fees Collected for October 2002: \$99,194.25.
- A-101's for October 2002: \$95.70
- Application for Cancellation of Taxes for October 2002: \$2930.01:
- New Hire Report for October 2002: Elizabeth Corbin, Julie Defrancesco, Benjamin DeVries, Joseph Gauthier, Rachel Jones, Debbie Ledo, Peggy Palylyk, James Phillips, Shannon Quinn, John Ridenour, Mary Robbins, Kristi Smith, Amy Van Dam, Bill Ware, Daniel Williams
- Terminated Employees' Report for October 2002: Becky Clements, Christina Compton, Ryan Limb, Tara Mittelstedter, James Olson, Serena Porter, Dawn Shepherd, Amy Van Dam, Kyle Wasson

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated November 6, 2002, in the amount of \$85,003.61.
2. Approval of Application for Cancellation of Taxes for Personal Property Taxes Numbered: 10202, 10362, 10416, 10763, 10919, 10921, 10925, 11046, 11050, 11126, 11369, 11482, 11529, 11698, 11717, 11868, 11896, 12043, 12097, 12147, 12577, 12779, 12801, 12840, 12905, 12923, 13067, 13365, 13429, 13463, 13534, 13555, 13577, 13684, 13719, 13821, 13869, 13892, 13918, 13941, 14375, 14483, 15847, 15891, 16758, 17024, 17482, 17619, 17733, 18037, 18189, 18617, 18630, 1883, 3251, 3839, 4174, 5305, 5484, 5727, 6221, 6290, 6357, 6764, 6952, 7088, 7404,

7461, 7515, 7612, 7689, 7789, 7855, 8301, 8555, 8577, 866, 8731, 8899, 9104, 918, 9392, 9783, 9662; totaling \$25,202.21.

3. Approval of Contract(s): Addendum to Contract #1999-021, Breast and Cervical Grant, Task Order 02-07-3-01-007-0; Amendment to Contract #1999-021P, Immunization Contract, Task Order 02-07-4-31-016-0; Addendum to Contract #1999-021, Public Health Emergency Preparedness Program, Task Order 03-07-4-61-016-0; Addendum to Contract #1999-021, WIC Contract, Task Order 03-07-5-21-0120; Snowplowing Services for West Yellowstone-G.C./Targhee Redi Mix; Paying Agency and Registrar Agreement Between G.C. and U.S. Bank for RID #383; Paying Agency and Registrar Agreement Between G.C. and U.S. Bank for RID #382; Addendum to Health Alert Network Contract #1999-021, Task Order 02-07-4-11-130-0; Detention Center Commissary Contract w/Keefe Commissary Network; Hobaugh Construction-FY 2002-2003, Snowplowing Agreement.
4. Request for Relocation of Common Boundaries for Baker Springs, L.L.C., Corporation and Winger, Inc., Corporation located in the S ½, SW ¼, NE ¼, N ½, SW ¼, NE ¼ of Section 13, T1N, R3E PPM, Gallatin County, Montana. Ralph Johnson Planning Consultant for Manhattan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gary Leibrand representing the Bostana Dairy reported on the public hearing and consideration of a resolution supporting issuance of industrial development bonds on behalf of the Bostana Dairy. In summary, Mr. Leibrand explained that west of Manhattan, the Robert Bos family was in the process of developing an industrial dairy and the tax-free revenue bonds are to develop a state of the art solid waste management system. Bond counsel Bob Murdo of Helena stated he would not be working as bond counsel however at the request of Chief Civil Deputy County Attorney Chris Gray he agreed to work with the county to make certain that this type of approach complies with Montana law. He took the resolution presented by the Cincinnati bond counsel and reworked it into a Montana law format. The resolution indicates that the county is aware of Bostana Dairy's project, as described of which the county will ask that they proceed, and as long as it is good for the county they will provide a subsidy of tax exempt financing. He confirmed there was no financial liability on the county for the issuance of these bonds and all liability was on Bostana LLC and the principal members. He pointed out that the primary underwriting and financial analysis for this project was Farm Credit Services of Spokane. The reason for getting the county involved is to help reimburse Bostana Dairy for expenses, out the bond proceeds if the bonds are issued. He also noted that the resolution does not include a requirement that the county finish and issue the bonds. In summary, this is \$2,500,000 dollars worth of financing for the county to be able to provide their support by way of stating to the owners of this product to get started. Commissioner Vincent brought attention to the end of the second paragraph of the resolution, and it was determined to put a parenthesis after the word Project. There was no public comment. Commissioner Murdock noted that Mr. Murdo addressed concerns voiced by members of the local Dairymen's Association. **Commissioner Vincent moved to adopt Resolution #2002-110. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Chief Civil Deputy County Attorney Chris Gray reported on the public hearing and consideration of a resolution ordering a public auction of county owned lands: Tract A, COS 998, Section 23, T1S, R3E, P.M.M, of which Gallatin County took a tax deed on June 3, 1998. A decision was made to sell the property at auction and the property can be auctioned at no less than the appraised value. Dennis Hager appraised the property at \$58,000. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2002-111. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on consideration of a resolution calling for a public hearing regarding the proposed Gallatin Drive Mosquito Control District to be held on November 26, 2002. There was no public comment. **Commissioner Vincent moved to adopt Resolution #2002-112, setting the public hearing for November 26, 2002. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of the bid opening for printing/duplication costs for 20,000 Code of the West documents. Notice was published in the High Country Independent Press and the Bozeman Daily Chronicle. One bid was received from

Westech Forms & Documents, Inc., as follows: 100 lb paper weight- \$5,981.60; and 65 lb paper weight- \$6,115.00. Gallatin County Road and Bridge Superintendent Lee Provance requested awarding the bid at the Commission's upcoming office meeting. It was agreed to continue award of the bid. Ms. Madgic took the bid under advisement and will make a recommendation November 13, 2002, at 1:30 at the Commission office meeting held in the Commission meeting room. **No action taken.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Dorothy Roe Dudley, located in the NW ¼ of Section 22, T2S, R6E. (1326 Bozeman Trail Road, Bozeman, Montana). Mr. Scott noted no known discrepancies in the request. Maren Kast with Power of Attorney for Dorothy Dudley was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Ron Allen land surveyor for the Dudley family confirmed there was an occasion sale exemption done in the 80's, and these lots were not created in that sale. There was no public comment. **Commissioner Vincent moved to approve the Dudley family transfer exemption, finding it meets the criteria for the exemption under the Montana Subdivision and Platting Act 76-3-201 through 76-3-210. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Manhattan Planning Consultant Ralph Johnson reported on behalf of Roy and Kay White for the public hearing and consideration of removal of an agricultural covenant from Lot B1, Minor Subdivision 138A subject to subdivision review and payment of all subdivision impact fees and preliminary plat review for the existing Minor Subdivision 138A, Lot B1, described as a tract of land being located in the SE ¼ and SW ¼ of Section 34, T2N, R3E, Gallatin County, Montana. The property is approximately 29.4 acres in size and generally located at the northeast corner of the intersection of Nixon Gulch Road and Lund Lane. Agricultural covenants were placed on Lots B1 and B2 when Minor Subdivision 138A was filed in 1998. Lot B2 is approximately 2 acres, located on the west side of Nixon Gulch Road and is not contiguous with Lot B1. On October 17, 2002, the Manhattan City-County Planning Board reviewed this request and voted to recommend removal of the agricultural covenants and review the applicant's minor subdivision submittal. Mr. Johnson briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with highlighting the suggested conditions. The County Commission has to make a determination as to whether the proposed removal of the agricultural covenant on Lot B1 is to be approved subject to subdivision review. The basis for the County Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Commission decides to approve the removal of the agricultural covenant on Lot B1, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. The applicants shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 3. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 4. A Memorandum of Understanding shall be signed between the Weed Control District and the applicants prior to final plat approval. 5. The applicants shall record the following covenants on or with the final plat: a) *The property owner shall be responsible for the control of County declared noxious weeds.* b) *Individual lot accesses from County public roads shall be built to the standards of Section 7.G.2 of the Subdivision Regulations.* c) *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* d) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* e) *Before any maintenance or improvements are performed on any watercourse, drainage way, channel, ditch, or canal the owner of the waterway must give written permission for the work to be done.* f) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 6. Two

copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval. 7. The applicants shall obtain an encroachment permit form the Gallatin County Road and Bridge Department. 8. The applicants shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations. 9. The applicants shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations. 10. The applicants shall provide an appropriate fire protection method in accordance with the Subdivision Regulations. The sub-divider shall have the Manhattan Rural Fire District review and approve the fire protection method prior to final plat approval. The sub-divider shall obtain written verification from the fire district that the requirement has been met. 11. A 30-foot ditch maintenance easement along the irrigation ditch shall be shown on the final plat. 12. The applicants shall have three (3) years to complete the above conditions and apply for final plat approval. In response to why the agricultural exemption was put on to begin with, Mr. Johnson stated it was because the applicant requested it and no one denied it. It was noted by the Manhattan Planning Board review that initially it was a mistake as this lot had no agricultural value at the time and was too small and very wet, which made it not appropriate for agricultural uses. Mark Chandler on behalf of C & H Engineering reported on the history of the parcels and gave an overview of the proposed request. Since they were not changing the lot, Mr. Chandler questioned if they needed to file a plat. Gallatin County Planning Director Jennifer Madgic determined because of the circumstances it would be easier to file an amended plat. There was no public comment. Ms. Madgic commented as to whether or not the placement of an agricultural covenant on a lot to delay subdivision review and payment of impact fees was a proper use of an agricultural exemption. Commissioner Mitchell noted concern with improvements to Nixon Gulch Road because of increased development and traffic in the area. Gallatin County Road and Bridge Superintendent Lee Provance stated that he did not review it however it was a county road. Ms. Madgic recommended that the County Road Department review the road and make recommendations as needed. Further discussion took place with regards to requiring additional right-of-way. Mr. Johnson noted his concerns with amending the plat, since it was an agricultural lot the Manhattan Fire Department may need to review for fire protection issues. He believed it may be more appropriate to go through a process similar to final plat which would require the developer to conform to all of the requirements that would have had been placed on it originally, had it gone through review. He agreed that this was a primary growth area, adding that it was to be identified in the Growth Policy the Town of Manhattan developed. Commissioner Murdock noted for Mr. Johnson's benefit, to make sure in the future to send these types of requests to the Road Department for review. Further discussion took place with regards to crafting a condition that would address the road issue. It was agreed to make condition #11 read as follows and renumber subsequent conditions: #11 "The County Road Department will review and approve adequate access easements and road improvements prior to final plat approval." The applicant was in agreement. **Commissioner Vincent moved to grant the request for removal of the agricultural covenant on Lot B1, Minor Subdivision #138A. Seconded by Commissioner Mitchell, finding that the Manhattan Planning Board agreed in hindsight that the agricultural covenant was inappropriate given the size of the lot and the character of the land being incompatible to development occurring along Nixon Gulch Road. Commissioner Murdock asked if the motion could be amended to make it contingent on successfully completing minor subdivision conditions. Commissioner Vincent amended the motion making it contingent upon completing the minor subdivision conditions. Commissioner Mitchell amended the second. None voting nay. Motion carried. Commissioner Vincent moved to grant preliminary plat review for Minor Subdivision 138A, Lot B2, finding it meets the criteria of the Montana Subdivision and Platting Act, the Manhattan Growth Plan, and the Gallatin County Subdivision Regulations, and noting the change to conditions: adding a new condition #11, and renumbering subsequent conditions. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Murdock announced a pending resolution amending the tax levy required for the Three Forks Dike District to correct an error to levy 4.01 mills instead of the 40.09 mills as originally approved, pursuant to 7-6-4034 and 7-6-4036 MCA. **Commissioner Mitchell moved to approve Resolution #2002-090A. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

There being no further business the meeting was adjourned at 10:12 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 19th DAY OF NOVEMBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:11 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, and Acting Clerk to the Board Mary Miller.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

NOVEMBER 11-12, 2002

- The Commissioners conducted regular County business.

NOVEMBER 13, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Accounting Clerks Renee Huyser and Liane Bennett, Commission Secretary Rose Blaskovich and Commission Assistant Glenda Howze. The Commission considered approval of claims listed on voucher list dated November 8, 2002 including numbers 8015399 – 8015409; totaling \$174,337.13. Commissioner Vincent made a motion to approve said claims. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of hiring Karen Vinton for consulting services with the County Commission. Commissioner Vincent made a motion to approve the hiring of Ms. Vinton @ \$50.00 an hour on a pay as you go basis. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners discussed their attendance at Finance Committee meetings. The overall agreement was to attend on a rotating basis, one commissioner at a time. No decision was made at this time.

NOVEMBER 14-15, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated November 14, 2002, in the amount of \$295,153.30.
2. Approval of Contract(s): Avalanche Snow Removal – RID 340 Sourdough & 359 Wildflower.

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Two vacancies exist on the Three Forks Ambulance Service District due to the term expirations of Mary Miller and Fuss Damuth. These positions are three-year terms, to expire September 1, 2005. Both members were notified of their term expirations and both expressed a desire to be reappointed. No additional applications were received to date. There was no public comment. **Commissioner Vincent moved to nominate both Mary Miller and Fuss Damuth for reappointment to the Three Forks Ambulance Service District. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the discussions of closing documents for the Martel low-rise purchase on Mendenhall and Third Street. Mr. Blackman stated that the current owner sent a counter offer on the buy/sell agreement, which had some specifics that needed to be reviewed and approved, based on information from the County Attorney and himself. He also pointed out there was a defamation from a current tenant that should also be incorporated. Chief Civil Deputy County Attorney Chris Gray explained that he along with Attorney Holly Brown evaluated the documents and found no legal impediments to acceptance of the counter offer. He added if nothing could be worked out with the current tenants in building that the current buy/sell and the counter offer would allow the County to exercise their

contingencies to get out of the deal if something was not acceptable. Attorney Devlan Geddes, representing Kevin McAtee confirmed that a letter had been hand delivered to the Commission regarding a lease set forth with his client and the current landlords. Commissioner Murdock replied that they were aware and were taking it under advisement with legal counsel. **Finding that both the Fiscal Officer and the County Attorney reviewed this, Commissioner Mitchell moved to approve the counter offer as received, reviewed, and revised. Seconded by Commissioner Vincent. Commissioner Murdock added that they were aware there were contingencies that have to be met. None voting nay. Motion carried.**

Commissioner Mitchell reported on the public hearing and consideration of a resolution regarding office closures the day after Thanksgiving. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2002-114. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Commissioner Murdock noted a problem with the way regular agenda Item #4 was advertised. It was advertised as the public hearing and discussion regarding setting a public hearing on the creation of a water and sewer district in the Four Corners area. In discussion, with the County Attorney regarding the public hearing portion, because it was not a public hearing it was determined that Chairman Murdock would use his discretion with some constraints, and allow public comment as long as it pertained to scheduling the public hearing on the proposed water and sewer district. Gallatin County Clerk and Recorder Shelley Vance summarized the water and sewer petition process and procedures to date. Tony Kolnik, chairman of the Advisory Committee thanked the Commission for their support and gave a brief summary on the progress of the committee to date. He explained at the last meeting with one board member absent they unanimously approved a letter and a boundary with a change. He noted they were making a sincere effort to work with the petitioners however in all fairness to the council members there were some discussions of requesting an extension because they believed there was some uncertainty as to the governing body of the board of directors. They were also unsure as to why creation of the district, the voting of the directors, and the indebtedness was being done simultaneously. Mr. Kolnik submitted Exhibit "A", a letter from the Commission addressed to Lonny Walker, dated September 13, 2002, which states that the Advisory Council should plan to meet with the Commission within the next six months to report on their progress. Jimmy Lohmeier, a committee member asked how they were to proceed if the boundaries they decided on were different than the petitioner's boundaries. Commissioner Murdock stated that the Commission submitted a series of 10 questions to the County Attorney for his legal opinion of which he had until December 17, 2002, to reply, with that being one of the questions. Mr. Lohmeier requested a copy of the questions and was told it was too early. Mr. Kolnik suggested setting the hearing date for January because they were scheduled to meet with DEQ on December 4, 2002, and as a consideration for the council requested that they have some time for their families during the holidays. Commissioner Murdock reminded them that they would also have to consider the petitioners. Public comment: Mike Kvasnick requested an extension, which would give him time to inform landowners in the area. George Metcalf suggested the best time to set the hearing would be after receiving a reply to the questions submitted to the County Attorney. Attorney John Brown, on behalf of petitioners requested that the public hearing be set for December 17, 2002, given the petition was filed August 23, 2002, and certified October 3, 2002. Dave Pruitt, a neighboring property owner recommended that the hearing be scheduled as soon as possible. Richard Smith a property owner in the area, concurred with Mr. Pruitt's ideas and concerns, and suggested they hold the hearing on December 17, 2002. Mike Potter, on behalf of the petitioners reiterated that they would like to see the process continue to move forward. He agreed that the Advisory Council and County staff had done an excellent job however for the process to work there had to be an end date so things could come together. He stated that they would acknowledge and work through the boundary ideas and the management. Mr. Potter was in favor of the suggested date of December 17, 2002, for the public hearing. Public comment was closed. Alan English, manager of the Local Water Quality District, submitted Exhibit "B", his written testimony. Mr. English stated that the LWQD was in support of the concept of a sewer and water district for the Four Corners area. He added that construction of the public sewer system would help protect and improve both groundwater and surface water quality, and construction of a public water system would protect public health. Mr. English noted that the District's primary concern was that the petitioners were close to withdrawing their petition if the process did not move forward in a timely manner. Although he was aware that many issues needed to be discussed, he believed there would be time to discuss those issues prior to the hearing date set for the petition and during the hearings. Mr. English urged the Commission to set the hearing date as expeditiously in the near future as statutes allowed in order to keep the petition process moving forward. Board discussion took place regarding their concerns of holding the public hearing on December 17, 2002, should the County Attorney take the full time allotted for his response to the questions, leaving no time for review and discussion. Commissioner Vincent had no problem setting the hearing for December 17, 2002, with assurance that the answers would be available 2 weeks prior so the opinions could be reviewed and made public. In response to Mr. English's testimony that it was in the public's interest, Commissioner

Murdock suggested they go forward and set the date of December 17, 2002, with the hopes that they could get the answers sooner. In worse case scenario he added that the hearing could be continued up to four times from December 17, 2002. Commissioner Mitchell preferred to move the process along too, and suggested they could offer the County Attorney to solicit some outside consultants for assistance. Ms. Vance reminded the Commission that the boundaries had to be established in order to conduct an election. **Commissioner Mitchell moved to set the public hearing on creation of the Water and Sewer District in the Four Corners Area for December 17, 2002, knowing they can extend the hearing up to 4 weeks. Seconded by Commissioner Vincent, adding that he fully understood the motion and could vote for it however he wanted to make absolutely sure that the public had full access to any and all legal questions and answers that are developed. He had no interest in stalling the project although he stated that he was going to vote against the motion because he wanted to be more cautious in setting date of December 17, 2002. Commissioner Murdock had the same concerns however he was committed to working with the County Attorney to get the information to the Advisory Committee for review. Commissioner Mitchell was also committed to working with County Attorney in order to get the information in a timely manner. Commissioners Mitchell and Murdock voting aye. Commissioner Vincent voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Unnamed Road to Paradise Vista Road). This was a county initiated petition. This was a county initiated petition. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-115. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Glasgow Road to Mountain Moose Road). This was a county initiated petition. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2002-116. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Unnamed Road to Bear Paw Trail). This was a county initiated petition. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2002-117. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Chairman Phil Olson, on behalf of the Gallatin County Airport Board reported on the public hearing and consideration of the purchase of a manufactured residence for the Three Forks Airport. For security reasons the manager is required to live on the airport and this would provide a permanent residence of which they have not had in the past. Mr. Olson submitted Exhibit "A", a picture of the residence. The home is a 2002 model and the purchase price is \$35,000.00. They plan to take \$5,000.00 out of their Capital Reserve Fund as a down payment and finance \$30,000.00 through the Manhattan State Bank for 10 years at 5 percent. The home was appraised by Gary France at \$42,500.00, because it was thought to be on a permanent foundation. Since it was not on a permanent foundation, the Board opted to reduce the purchase price. Mr. Olson noted that the bank requested a letter of confirmation of approval from the Commission. Gallatin County Fiscal Officer Ed Blackman confirmed that the proper procedures were being followed and outlined the funding source. There was no public comment. Mr. Olson stated that the Board is hoping at some point in the near future that these funds could be included in an Intercap loan at a lower interest rate. **Given the testimony of Mr. Olson and Mr. Blackman, Commissioner Vincent moved to approve the purchase of a residence for the Gallatin County Airport with the understanding that the Commission will authorize and sign the appropriate loan application. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County DES Coordinator Jason Shrauger reported on the resolution of intent to increase the Disaster and Emergency Services FY 2003 operating budget to include unanticipated grant funds in the amount of \$63,243 for the purchase of machinery and equipment. There was no public comment. **Commissioner Vincent moved to approve Resolution of Intention #2002-118. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Manhattan Planning Consultant Ralph Johnson reported on the public hearing and consideration of final plat approval of the two-lot Chaney Minor Subdivision, described as a tract of land being located in the NW ¼ of Section 7, T1N, R4E, PMM, Gallatin County, Montana. The property is generally located on the south side of Dry Creek Road, approximately one-quarter mile east of Central Park Road. The property is located within the Manhattan Planning District. Preliminary plat approval was granted on September 18, 2001. Mr. Johnson stated that he reviewed the submittal and the conditions have been completed therefore, recommending approval. There was no public comment. **Commissioner Mitchell moved to approve the final plat for the Chaney Minor Subdivision, finding that according to staff the subdivision has met all the requirements, the State Statutes, the County Master Plan, and the Manhattan Master Plan. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for a family transfer for Edith Dickson, located in the NW ¼, of Section 10, T1S, R4E. (Kessler Road). Mr. Karp summarized the proposal, noting that it appeared to be a proper use of the exemption. Edward C. Dickson with Power of Attorney for Edith Dickson was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Finding that this family transfer exemption appears to meet all the regulations required of the exemption allowed under the Montana Subdivision and Platting Act, Commissioner Mitchell moved approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the continuation of the public hearing and consideration of a request for an agricultural exemption for Robert Foster. It was proposed by Robert Foster to create an additional tract of land using the agricultural exemption, located in the SW ¼ of Section 2, T1S, R5E. (5900 Springhill Road, Belgrade). Mr. O'Callaghan briefly summarized the staff report as presented at the public hearing on October 8, 2002, noting a continuance was requested at that time pending review from the County Attorney's office, because of a series of family transfer exemptions submitted by the applicant. Robert Foster was sworn in for a second time and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. During discussion it was noted that a relocation of common boundary might work better than the proposed agricultural exemption. In response, Deputy County Attorney Kate Dinwiddie stated there were several problematic issues with Mr. Foster's submittal. Some of those problems involved the history of exemptions, and the prior submittal of the Middle Cottonwood Creek Major Subdivision. She noted one of the problem areas was the tract to be created, which includes a creek. She believed that Mr. Foster might be trying to get rid of that parcel which could eventually lead to evasion of subdivision review. She added that exemptions should be treated more as a privilege rather than a right. In conclusion, she stated an Attorney General Opinion, which states that a claimant who attempts to engage in a pattern of exempt transactions, which would result in the equivalent of a subdivision without local government review, should be denied or carefully scrutinized. The Commission concurred, adding that Mr. Foster had the option of doing a relocation of common boundaries. **Commissioner Mitchell moved to deny the Foster agriculture exemption request, with the findings based on previous history of this lot and the history of the applicant, and noting there are other options if the intended uses were as testified by Mr. Foster. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of the bid award for printing/duplication costs for the Code of the West document. Ms. Madgic noted one bid was received from Westech Forms & Documents, Inc of Belgrade, which included two different paperweight options for the cover. It was determined the best choice would be the thicker cover in the amount of \$6,115.00 for 20,000 copies. There was no public comment. **Commissioner Mitchell moved to accept the bid from Westech in the amount of \$6115.00, for the 20,000 copies of the Code of the West, based on the County Planning Director's recommendation and consulting of other staff. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the continuation of both public hearings and consideration of a request for common boundary relocation exemptions for Kenneth Vidar and Thomas

Langel (Meken Corp. & Hill Country, dba Gallatin River Ranch and Thomas C. and Sharon D. Andrews) and Thomas Langel and Kenneth Vidar. Mr. Scott received a call from Don Biehl representing the applicant's Mr. Langel and Mr. Vidar stating that they could not attend today's hearing. It was requested by the applicant to continue both requests until December 3, 2002. **No action taken.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Robert Koch, located in the NW ¼ of Section 2, T1S, R5E. (Ballantyne Lane). Jennifer Koch with Power of Attorney for Robert Koch was sworn in and testified under oath, answering questions submitted by the County Attorney to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Vincent moved to approve the Koch family transfer exemption, finding it meets the criteria stipulated under the Montana Subdivision and Platting Act. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a request for Gaston Engineering & Surveying, P.C. on behalf of Jerry Locati for a one-year extension of the preliminary plat approval for the Locati Minor Subdivision. Preliminary plat approval was granted on September 7, 1999. The proposed subdivision consists of five single-family lots located at Big Sky. Mr. Johnson reported that the statutory preliminary plat approval period for he subdivision expired on September 7, 2002; and Section 3.1 of the Gallatin County Subdivision Regulations gives the Commission the authority to grant a one-year extension of preliminary plat approval. If approved by the Commission, the preliminary plat of the Locati Minor Subdivision would expire on September 7, 2003. The applicant's representative Dennis Foreman stated that time got away from them, before they realized that their time was up. Further discussion took place with regards to granting extensions after the expiration date. Mr. Foreman noted prior cases where the Commission granted extensions after the expiration date, adding that they had set precedence by doing so. He believed they could meet the extended dated of September 7, 2003. Mark Chandler of C & H Engineering stated that they had instances in the past where they had plats that expired and they were approved. Public comment was closed. **Commissioner Mitchell moved to approve the one-year extension, finding it started September 7, 2002, and will end September 7, 2003. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:31 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING TUESDAY THE 26th DAY OF NOVEMBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:09 A.M., at the City Commission Meeting Room. Also present were County Commissioner John Vincent and Acting Clerk to the Board Mary Miller. Commissioner Mitchell was on vacation.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

NOVEMBER 18, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, former Commissioner Phil Olson, Commission Secretary Rose Blaskovich, and Commission Assistant Glenda Howze. The Commission considered approval of the sale of an old snowplow for Three Forks Airport. Commissioner Mitchell made a motion to approve the sale of an old snow plow, with the monies to be deposited into a 940 account as the Finance Officer has recommended. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.
The Commissioners considered approval of a budget transfer request for the Junk Vehicle

Department. Commissioner Mitchell made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the signing of a Certificate of Substantial Completion for Hyalite Meadow RID #383. Finance Officer Ed Blackman noted that he does not recommend approval at this time due to recent correspondence related to this RID. Commissioner Mitchell made a motion to deny signing of the Certificate of Substantial Completion for Hyalite Meadow RID #383, based on information received from the Homeowners Association, pending an updated completion form. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a use agreement with Danhoff Chevrolet for a vehicle for the Sheriff's Chaplain. Commissioner Vincent made a motion to approve said agreement. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed the Winter Use EIS. Commissioner Murdock updated the other commissioners, noting that the recent version requires clean, quiet, and all guided machines. West Yellowstone will have a cap of 550 machines per day. Current statistics show that only 3 or 4 days of the year is this number currently exceeded. Commissioner Vincent noted that he would prefer a compromise between 550 and the 1400 maximum that West has reached. Commissioner Murdock noted that he objects to the 2-machine minimum if they have passed the training. These preferences will be so noted to the group.

- The Commissioners attended a regularly scheduled County Attorney semi-monthly meeting. In attendance were Commissioners Murdock and Vincent, County Attorney Marty Lambert, and Clerk and Recorder Shelley Vance. Commissioner Murdock made a motion to appoint the Attorney General (attorneys assigned to the Prosecution Services Bureau of the Department of Justice) as Special Deputy County Attorneys for Gallatin County for the purpose of assisting in the prosecution of Roman Sonny McCarthy and that any of said deputies have the same capacity to act as the training coordinator/bureau chief. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

NOVEMBER 19, 2002

- The Commissioners conducted regular County business.

NOVEMBER 20, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Commission Secretary Rose Murrish, Commission Assistant Glenda Howze, and guest Nick Gevock, Bozeman Daily Chronicle. The Commissioners considered approval of the Open Lands Board contract with the Montana County Treasurers. Commissioner Vincent made a motion to approve said contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Discussion took place regarding Bear Canyon Road, sexually oriented businesses, meetings with the City of Bozeman, and growth policy. No decisions were made regarding these items.

The Commissioners discussed legislative priorities. The Mental Health Local Advisory Council asked that the Commission allow mental health to be one of the priorities given to our lobbyists. Commissioner Vincent made a motion stating that the Gallatin County is committed to promoting the best interest of Gallatin County residents in the field of mental health during the 2003 Legislature. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

NOVEMBER 21, 2002

- Commissioner Murdock attended a Sheriff's Monthly meeting with Sheriff Cashell, Under-Sheriff Bickle, Detention Administrator Anita Shaw Tymrak, and County Attorney Marty Lambert. In an effort to be efficient with time in the future, Commissioner Murdock requested that minutes of his opinion on a memo from Sheriff Cashell dated November 20, 2002, regarding jail overcrowding, be recorded and considered as a part of the whole Commission decision when the other Commissioners were asked for their approval. Commissioner Murdock noted that he approves the funding of the following requests: Design and construction of the HVAC system in the Detention Center facility; and, hiring detention staff sufficient to provide at least two officers supervising inmates at all time, one officer in the control room, one officer in the intake area, and one supervisory on all shifts. Commissioner Murdock also approved a request that the courts be encouraged to begin assessing the costs of confinement to those who are sentenced to serve time at the actual cost of confinement. This will create a revenue stream that will offset some of the costs of housing inmates. Commissioner Murdock stated that the first request, funding to allow the contracting of beds at another secure facility for approximately 15 inmates be taken under consideration, and no opinion was given at this time.

NOVEMBER 22, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated November 21, 2002, in the amount of \$1,324,987.80.
2. Approval of Applications for Cancellation of Taxes for Parcel Number(s): PPP17024 and PPP13579; totaling \$118.50.
3. Approval of Contract(s): Junk and Abandoned Vehicle Lot Caretaker; David Richards – RID Snowplowing FY 2002-2003, RID 314 & 366; Bush Drilling, Inc. – RID Snowplowing FY 2002-2003, RID 372; and Hebgen Facility Plan – RID 322

Commissioner Vincent read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Health Officer Stephanie Nelson reported on the public hearing and consideration of a resolution of intention to increase the FY 2003 operating budget to include unanticipated grant funds. Ms. Nelson noted that the agenda incorrectly stated this was the resolution, rather than the resolution of intention. The public hearing is scheduled for December 10, 2002. There was no public comment. **Commissioner Vincent moved to adopt Resolution of Intention #2002-119, noting the Board of Health approved these adjustments. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution of intent to amend the Sheriff-Detention Center Activity FY 2003 operating budget to include unanticipated expenses associated with increases in per meal costs by the County Rest Home in the amount of \$14,800.00. There was no public comment. **Commissioner Vincent moved to approve Resolution of Intention #2002-120. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Disaster and Emergency Services FY 2003 operating budget to include unanticipated grant funds in the amount of \$63,243.00 for the purchase of machinery and equipment. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-121. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on consideration of a resolution of the Gallatin County Commission in the Tone variance disposition. Ms. Drummond noted that on November 14, 2002, the Trail Creek Planning and Zoning Commission continued the public hearing of the Tone variance request to December 19, 2002, so the applicant could get a property survey. That hearing will be held at 10:30 A.M., in the EMS Fire Station in West Yellowstone. There was no public comment. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a resolution to annex property into the Belgrade Rural Fire District. Ms. Vance confirmed that there were no protests. There was no public comment. No protests. **Commissioner Vincent moved to approve Resolution #2002-122. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration of a resolution to annex property into the Sourdough Rural Fire District. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-123. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider creation of the Gallatin Drive Mosquito Control District. On November 12, 2002, Resolution #2002-112 was passed by

the County Commission, calling for this public hearing regarding the proposed Gallatin Drive Mosquito Control District. Notice was published in the High Country Independent Press on November 14 and 21, 2002; and notice was mailed on November 12, 2002, to each non-resident owner and purchaser under contract for deed taxable, real, and personal property within the proposed district. Three of those notices were returned as undeliverable, and were forwarded. Ms. Vance noted there were two protest letters (Donald A. Schiemann and George DeBelly) received and one letter of support (Peter and Judith Townes). Public comment in support: Resident Michael Zell, on behalf of Robert Dehlendorf; and David Sullivan. Further discussion took place with regards to the procedural process in creating the district. Ms. Vance noted there could be problems in the future should the Commission simply order this district to be created. She recommended they work with Chief Civil Deputy County Attorney Chris Gray if they believed the district should be created and have him prepare a resolution that would include a written legal description, making documentation. This would prelude problems later on in the future should the people within the district be assessed in order to provide these services. Commissioner Murdock was comfortable in creating the district and directing the County Attorney to prepare documents, as well as advising on the next steps. Commissioner Vincent preferred making it contingent upon the recommendation of the County Attorney or continuing it until Mr. Gray could review it. **Commissioner Vincent motioned to approve the creation of the Gallatin Drive Mosquito Control District, contingent on input and recommendation from the County Attorney's Office as to any legalities involved and also in regard to specifying specific boundaries of the district. Seconded by Commissioner Murdock, adding that he hoped when the Board and management plan was formed that they would keep it environmentally correct because of concerns that were expressed about the kinds of chemicals that might be used that could damage the fisheries.** Resident Chris Bulger commented that damaging the fishery was the last thing they wanted to do and that it was of the utmost concern to them. Commissioner Vincent suggested that the community get together and discuss the nature of the board as far as expertise and balance and make a recommendation to the Commission for appointees to serve on the board. Mr. Sullivan commented that larvicide's used in modern mosquito control are very environmentally friendly. Mr. Zell commented that the initial petition included a map and description of the property to be included within the boundaries. Ms. Vance clarified that the petitioners did submit a boundary however she was concerned that the Commission should consult with the County Attorney with regards to making certain findings. **None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 9:49 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 3rd DAY OF DECEMBER 2002

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the City Commission Meeting Room. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Mitchell was on vacation.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

NOVEMBER 25, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, Chairman Lonny Walker – Four Corners Advisory Council, Commission Secretary Rose Murrish, and Commission Assistant Glenda Howze. The Commissioners discussed personnel needed for the West Yellowstone Solid Waste Refuse District. Mr. Watson explained that they need individuals for management operations. The Board prefers to use the County payroll system and have benefits provided through the County. Mr. Watson requested utilization of HR Director Randy Kuyath in defining the positions for the basis of the RFP, and the Board will be required to hire their staff through the County processes. The Commission agreed to this plan.

The Commissioners considered approval of a request from the Strategic Planning Recruit and Retain Team for health club membership fee supplementation. The funding of this would come from the health insurance pool, not taxpayer monies. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote

of two to zero.

The Commissioners considered approval of a request for asset disposal from the County Attorney's Office. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a request from ITS to raise the pay of Anita Malmquist, as she has exceeded that of her initial job posting and is deserving of additional compensation. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered amending the Maxim Web contract. The amendment is for an additional \$5,000 into the FY 03 budget for web-based surveys. Commissioner Vincent made a motion to approve the amendment to the Maxim Web contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

NOVEMBER 26, 2002

- The Commissioners conducted regular County business.

NOVEMBER 27, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Commission Secretary Rose Murrish and Commission Assistant Glenda Howze. The Commissioners considered approval of a request for a transfer of fund balance for the Health Department. Commissioner Vincent made a motion to approve said request, per the recommendation of Finance Officer Ed Blackman. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a credit card application for the Planning Office. Commissioner Vincent made a motion to approve said request, per the recommendation of Mr. Blackman and Auditor Joyce Schmidt. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a Logan Landfill Intercap Loan Agreement for FY 03. Commissioner Vincent made a motion to approve said agreement, finding that Mr. Blackman and Chief Deputy County Attorney Chris Gray have recommended approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners continued consideration of a request for funding from Sheriff Cashell regarding the jail-overcrowding situation. The discussion surrounded the memo sent to the Commission by the Sheriff, dated November 20, 2002. Commissioner Vincent made a motion to approve/sanction requests two, three, and four as noted in the memo (see minutes of November 21 for details). Commissioner Murdock seconded the motion. In discussion it was noted that the first request would be discussed at an appropriate time at a public meeting. All voted aye. Motion carried with a vote of two to zero.

NOVEMBER 28-29, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated November 27, 2002, in the amount of \$635,841.77.
2. Approval of Contract(s): Modification to Impound Agreement, Contract #2002-095; and Architectural Services-Taylor, Hanson, Kane Architects – Martel Bldg. Renov.
3. Request for a "Mortgage Survey" Exemption for JKC Land Partnership, located in the SW ¼ of Section 21, T2N, R4E. (7447 Round Mountain Road, Belgrade, MT). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Murdock announced that a request was made to move regular agenda Item #10, the public hearing to consider abandonment of a portion of a 60' Frontage Road in the Peakview Subdivision, closer to the beginning of the agenda because of a scheduling conflict. The Commission was in agreement to the change, making it Item #4.

The Commission agreed to continue presentation of the proclamation declaring December 2002 as Drunk and Drugged Driving (#D) Prevention Month in Gallatin County, until later on in the agenda when a member of the DUI Task Force was in attendance. **No action taken.**

Commissioner Vincent on behalf of Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and a resolution amending the Sheriff-Detention Center Activity FY 2003 operating budget to include unanticipated expenses associated with increase in per meal costs by the County Rest Home in the amount of \$14,800.00. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-124. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Vincent on behalf of Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution of intent to amend the Search and Rescue Fund FY 2003 operating budget to include utilization of operating reserves and correction of cash from FY ending 06/30/01 in the amount of \$31,600.00 for the operations of Search and Rescue including capital expenses. There was no public comment. **Commissioner Vincent moved to approve Resolution of Intention #2002-125. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of approximately 200' of a 60' Frontage Road adjacent to Lot 8, Block 1 in Peakview Subdivision #2. (Road Petition #809) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #809 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The road has been constructed. There is limited access onto Gallatin Road and the frontage road is used as an internal loop system for access to lots within this subdivision. The frontage road has been blocked off with large posts lying on the ground on the north end of the lot, with no trespassing signs. The intersection of the frontage road and Wheeler Mountain Way has been removed. A large sign (Antique Barn), paved parking lot, and approximately five feet of the west side of a commercial building have been constructed on the portion of frontage road to be abandoned. Although no one would be land-locked if the abandonment were granted citizens would be denied access to public lands. Therefore, in the best interest of the public's access and safety, the viewing committee believes that it is not desirable to grant the petition. Petitioner Ken Shepard submitted Exhibit "A", a copy of the plat in the area of the proposed abandonment, showing additional accesses onto Gallatin Road. Mr. Shepard explained the processes he followed in order to submit the petition and pointed out that there were additional accesses. Mr. Provance confirmed that the encroachments drawn in on Exhibit "A" were in place. He noted that the road was created to service the subdivision from Garnet Mountain Way to Wheeler Mountain Way so traffic would not have to go onto the highway in order to access the other portion of the subdivision. Because there were already obstructions in the roadway, Commissioner Vincent questioned whether the public safety and well being was unduly compromised or whether the other accesses to the road were adequate to protect the public safety and convenience. Mr. Provance suggested the Commission obtain comment from EMS services such as Gallatin Fire and the Sheriff with regard to health and safety issues. Before making a final decision, Commissioner Vincent preferred a continuance in order to consult with the Gallatin Gateway Volunteer Fire Department with regard to any concerns relative to fire services. Public comment was closed. In response to questions concerning the plat, Ms. Vance noted when the plat was recorded a certificate of dedication from the landowners was included, stating that the tract of land should be known and dedicated as Peakview Subdivision #2 and all land included in the streets of the subdivision are hereby granted and donated to the use of the public forever. Commissioner Murdock explained in some of the older subdivisions it was common practice to have that dedication on the plat however the county did not require the roads to be built and improved. Mr. Shepard was in agreement to a continuance until December 17, 2002. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on withdrawal of a petition to abandon a 20' unnamed road fronting Lots 218, 219, and 220, approximately 298.4' in length, running in a N-S direction commencing at the northwest end of Milwaukee Avenue and terminating at a dead end at the northwest corner of the Rainbow Subdivision of Bozeman Hot Springs in the N ½ and SE ¼ of Section 14, T2S, R4E.

(Road Petition #804) Ms. Vance explained that this road petition, filed by Morrison-Maierle Inc., was a duplicate, to Road Petition #810 filed by Randy Cain. She read into the record a letter received from Morrison-Maierle dated November 22, 2002, withdrawing their petition in favor of Mr. Cain's petition, with the understanding that the Gallatin County road-viewing committee believes that it is feasible and desirable to grant Road Petition #810, filed by Mr. Cain. Deputy County Attorney Kate Dinwiddie confirmed that the petitioners could withdraw their petition from consideration. Following further discussion, the Commission agreed to continue their decision until after consideration of Road Petition #810. There was no public comment. **No action taken.**

Commissioner Murdock announced that he received notification to continue regular agenda Item #12, public hearing to consider abandonment of Newman Lane within Minor Subdivision #176. (Road Petition #812) Gallatin County Clerk and Recorder Shelley Vance explained that it was not to be continued however there was a request submitted for withdrawal. It was determined by the Commission to consider regular agenda Item #12 at this time. Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance read into the record a letter received from Ray and Shirly White dated December 2, 2002, requesting that their request be withdrawn from consideration. The viewing committee report was not entered into the record. Deputy County Attorney Kate Dinwiddie confirmed that the petitioners could withdraw their petition from consideration however the Commission had the discretion to consider the request since she did not believe there was enough information to decide if all those signing the petition concurred with the withdrawal. Ray White stated that their intent was to convert it from a public right-of-way to private, and after receiving the viewing committee report they made the decision to withdraw their request. He noted that the law did not address changing a public right-of-way to private. They had no intention of abandoning the road and land locking the 5 lot minor subdivision. He explained that he and his wife were 100 percent of the properties affected and 8 of the petition signers were his immediate family. **The Commission agreed to grant the applicant's request to withdraw their petition.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Milwaukee Avenue and Indigo Road located south and west of Lot 220 and west of Lots 218 and 219 in Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #810). Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Randy Cain submitted the petition. Ms. Vance and Commissioner Vincent viewed the described road in petition #810 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: Milwaukee Avenue has been constructed and ends approximately at the southeast corner of Lot 213. The portions of roads to be abandoned have not been constructed. There are several mature trees located on the portion of road adjacent to Lots 218 and 219. Leelynn Corp. currently owns lots 218 and 219. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat approval is granted for North Star Subdivision. Public comment: Michael Kvasnick was concerned he would not have access from his property if the North Star Subdivision was not granted final plat. He was not against the closure as long as everyone's needs in the area were met for the future. Tony Kolnik was concerned that traffic from the North Star Subdivision, a light industrial commercial development, would be allowed access through all the small ten-acre lots in the area. As a member of the Advisory Council, Mr. Kolnik requested a continuance so they could review this and gather input from the neighborhood. Clinton Cain stated that he constructed Milwaukee Road and spoke in support of the abandonment. Public comment was closed. Mr. Provance expressed the importance of considering public safety when abandoning a road that is serving property before having a replacement road approved first. He suggested that the Commission continue their decision on these road abandonment's until after final plat was granted to the North Star Subdivision. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Azure Street located between Lots 188-194 and Lots 199-205 in the Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #805) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #805 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The portion of road to be abandoned has not been constructed. There are two old buildings, brush, and some trees located near the platted road. Lot 198 has access from Milwaukee Avenue. Leelynn Corp. owns Lots 188-194 and 199-205. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat is granted for North Star Subdivision. Deputy County Attorney Kate Dinwiddie noted that there was no statutory timeframe for the Commission to make a decision therefore they could continued action based on whether or not North Star is granted final approval. Public comment: Clinton Cain pointed out a natural gas pipeline and a power line that runs along Azure Road and questioned how the Northwestern Energy right-of-way might conflict in order for them to legally service the line. Marty Gagnon, with Morrison-Maierle on behalf of PC Development stated that they were working with Northwestern Energy on providing easements for the gas line and the power line on the final plat. Mr. Gagnon also stated that PC Development had no problem with the Commission continuing their decision on the road abandonments until final plat approval is granted for North Star. He added that an easement document has been prepared for the Milwaukee Railroad right-of-way, which has not been signed by the owner Dennis Simpson. Public comment: Sam Harvey, on behalf of the Gallatin Valley Snowmobile Association stated that they had no concern with the road abandonments however their concern was an appropriate access for their large equipment. Mike Kvasnick commented regarding his concern with access and the Milwaukee Railroad easement. Lonny Walker quoted from State Statute regarding public utilities, noting that abandonment would not affect the utilities right to maintain their structures. Tony Kolnik stated that he had contacted Northwestern Energy and requested that they attend a meeting with the Advisory Council. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Central Street located between Lots 183, 184, 185, and 186 in the Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #806) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #806 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The portion of road to be abandoned has not been constructed. There are large cottonwood and aspen trees and a small stream located on or near the platted road. Lots 183 and 187 have access from Milwaukee Avenue. (Ms. Vance noted an error on the viewing committee report stating Lots 182 and 187). Leelynn Corp. currently owns lots 183-186. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat approval is granted for North Star Subdivision. Public comment: Tony Kolnik was concerned with the public safety factor of getting out on Norris Road to the highway. He also noted concerns of some neighbors with filed water rights issues who have used the Barker Ditch near Central Street to convey West Gallatin water. Teri Kolnik stated that she would like to see Central Avenue built and used as a major access to the Rainbow Subdivision. Sam Harvey, on behalf of the Gallatin Valley Snowmobile Association had no objection to the abandonment however they requested more information on future access through the North Star Subdivision. Stuart Aasgaard had no objection to the abandonment however future planning was relevant. He did not support extension of the road because he did not want the traffic near his property. Marty Gagnon with Morrison-Maierle on behalf of PC Development commented that a buffer zone is shown on the plat around Mr. Aasgaard's lot. He also noted that the Barker Ditch does not run down the right-of-way that is proposed to be abandoned. Mr. Gagnon agreed to provide a copy of the plat for the Commission as requested. Mike Kvasnick commented on the North Star plat. Public comment was closed. The Commission agreed to continue action on the abandonment until December 17,

2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Magenta Road located between Lots 206-209 and Lots 214-217 in the Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #807) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #807 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The portion of road to be abandoned has not been constructed. Power polls are located on or near the platted road. Lot 213 has access from Milwaukee Avenue. Leelynn Corp. currently owns lots 206-212 and 214-217. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat approval is granted for North Star Subdivision. Public comment: Tony Kolnik submitted Exhibit "A", a letter from himself and his wife to the Commission, attached to a copy of the North Star Project preliminary plat application. He pointed out what he believed were inaccuracies on the application with regard to who owns the property in question. He spoke regarding concerns with the utilities and public safety. Clinton Cain spoke in support of the road abandonment. He also would like to see access from Rainbow Subdivision to Norris Road. Public comment was closed. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of an alley located between Lots 1-3 and 67-69 in Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #808) Lonny Walker submitted the petition. Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #808 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The petition submitted did not list all lands and owners immediately adjacent to the road, nor did the petition identify any adjacent landowners who do not consent to the proposed abandonment. Lonny Walker currently owns Lots 1-3 and 67-69. Eric and Christine Berger currently own Lots 4-6. Mary Askvig and West Roberts currently own Lots 65 and 66. The Commission received two letters stating opposition to the abandonment of this alley. (Letter dated July 31, 2002 from Mary L. Askvig and letter dated July 29, 2002 from West Roberts). Montana Code Annotated 7-14-2615 (4) states: "The board may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners unless all of the landowners agree to the abandonment." The portion of alley to be abandoned has been constructed. Two 6-inch posts have been placed in the alley between the property lines of Lots 3/67 and Lots 4/66. Another roadway is constructed from the alley onto Highway 191 on land between the Walker property and Berger property that is approximately 10 feet in width. It is unknown whether or not this access has been permitted by the State Department of Transportation, and there is no guarantee that this access will remain in the future. According to County Road Superintendent Lee Provance, access from the State Department of Transportation could be limited onto Highway 191 due to safety issues. No one would be denied access to public lands if the abandonment were granted. The viewing committee does not believe it is feasible, desirable, or lawful to grant the petition. Lonny Walker briefly summarized the history of the alley, noting portions of the alley that have already been abandoned. Mr. Walker provided the Commission with several documents, exhibits from the previous alley abandonments, and copies of the law, which were not submitted as exhibits. He did not realize that he had to notify those whose property did not abut the portion of alley to be abandoned. In response to 7-14-2615(4) MCA, he contends the other landowners agreed to the abandonment because they had abandoned the alley adjacent to their property. He stated that Mr. Roberts put in the fence posts to construct his fence. Mr. Walker provided documentation (Bargain and Sale Deed - 77fm2147) where the Department of Highways in 1983 purchased future rights-of-way along Highway 191, reserving ingress and egress to the access he shares with Mr. Berger. Public comment: Tony Kolnik commented with regard to public safety noting that they will need access for the Berger's to bring in water and sewer. Eric Berger stated if the access onto Highway 191 and this alley were to cease, he would be land locked. Mike Kvasnick commented to the previous alley abandonments. Public comment was closed. Commissioner Murdock did

not view this request in the same context as the rest of the abandonments. He did not believe this alley was part of a larger transportation network in the area. He stated that it was a fair request and he could not see where it would not be in the public's interest to abandon it. Mr. Provance commented on the potential of the access being cut off onto Highway 191, noting that the easement is not perpetual. He believed the prior abandonment's should not set precedence. Deputy County Attorney Kate Dinwiddie noted provision (7-14-2615(4)) of the law that Mr. Walker quoted was amended in 1999, and the previous abandonment's occurred in 1991. She added that the issue of notification of property owners and what is an access are under advisement in the Cimмерon Road abandonment case with Judge Guenther. Based on the law, Ms. Dinwiddie stated that the statute requires the Commission not grant this petition because of the two or more private landowners that have objected. She believed the decision by Judge Guenther would provide more of a guideline to evaluate these road abandonments. Given Ms. Dinwiddie's legal input, Commissioner Vincent believed it would be wise to wait until they got the summary judgment from Judge Guenther. He had concerns with what the state will do with Highway 191, because of the growth in this area. The Commission agreed to continue action until December 17, 2002. Ms. Dinwiddie stated that she would not be available however she would provide a written report. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a 60' road south of Lot 13 in the Sourdough Hills Subdivision. (Road Petition #811) Dave Garber submitted the petition. Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #811 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: Sourdough Hills' subdivision plat indicates that lots are accessible by the road right-of-ways surrounding the tracts. The right-of-ways shown on the plat to the north, east, and south have not been constructed. The tracts are located on a hillside and a steep gully runs on the east side of Tracts 8 through 10. The contour of the land makes it impractical and cost prohibitive to construct roads that meet county standards within the existing right-of-ways shown on the plat. No one would be land locked nor denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition. Dave Garber stated that he had to put a deed restriction on his property to get a land use permit because of the position of the right-of-way. His main reason for petitioning for the abandonment was to get the deed restriction off the property as well as allow more room through the hilly area. He stated that the neighbors were in favor of the request. There was no public comment. Commissioner Vincent stated that he would vote to approve this request, noting the primary reason was the impracticality of constructing the road from Sourdough to the east, and the improbability of building a road from north to south on the backside. **Given the topographical considerations in this application, Commissioner Vincent moved to approve the road abandonment of 60' of road south of Lot 13 in Sourdough Hills Subdivision. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

The Commission agreed to consider regular agenda Item #16 next.

Gallatin County GIS Coordinator Allan Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County. (Non-existing name to Claim Creek Road). This was a resident initiated petition. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-126. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of approval for C & H Engineering and Surveying, Inc., on behalf of Homelands Development Co. LLC on an extension of preliminary plat approval of the Ramshorn View Estates Major Subdivision, Phases 3 & 4, located in Section 8, T7S, R4E, P.M.M., Gallatin County, Montana. Preliminary plat was granted on May 5, 1998, with an expiration date of May 5, 2001. The preliminary plat of Phases 3 & 4 of the Ramshorn View Estates Subdivision was granted a one-year extension on April 10, 2001, extending the plat's expiration date to May 2, 2002. If approved by the Commission, the preliminary plat of Phase 3 & 4 would expire May 5, 2003. Attorney Susan Swimley, representing Homelands Development Co. LLC stated the reason for the extension was to complete the sewer system. Mark Chandler, on behalf of C & H Engineering was available to answer questions. There was no public comment. **Commissioner Vincent moved to approve the request for a one-year extension for preliminary plat for the Ramshorn View Estates Major Subdivision Phases 3 and 4. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the continuation of a request for a common boundary relocation exemption for Kenneth Vidar and Thomas Langel, located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, T2N, R3E. (Deerhaven Road, Gallatin River Ranch). Mr. Scott briefly stated the claimant's justification for the boundary relocation was to better utilize existing roads and to enhance the property. Although this claim appeared to meet the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act (76-3-201 through 76-3-210 MCA), the Planning Department noted some history, which made it unclear that it meets the criteria for the exemption. Mr. Scott summarized a timeline of events where the claimants were involved in other boundary relocations in this area, some of which were denied. The hearing on October 29, 2002, was continued and the Commission requested that the applicant better state their justification for the boundary relocation, as the applicant's representative could not answer some of their questions. The applicant Kenneth Vidar was sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. He explained that they were not creating any additional parcels or gaining an additional building site. Because of the topography in the area, he stated the only thing they would be gaining would be aesthetics by not having to bring a road up to the ridgeline. There was no public comment. Commissioner Murdock reiterated that Gallatin River Ranch should have gone through subdivision review and gotten some of the public health, safety and welfare concerns met, and in this case a much better configuration for lots and roads. Mr. Vidar commented that this was submitted for subdivision review with 52 less lots, and the Commission at that time was primarily against it. Commissioner Murdock did not believe any more boundary relocations should be approved and suggested the applicant go through a common unified scheme and work something out. Commissioner Vincent was unclear, and preferred to postpone action until after looking into Commissioner Murdock's concern relative to the process as well as review 76-3-201 through 76-3-210 MCA, in order to conclude if it is unclear. It was agreed that the Commission would continue their decision until January 2, 2003, in order to accommodate everyone's schedule. **No action taken.**

Gallatin County Planner Christopher Scott reported on the request for a common boundary relocation exemption for Kenneth Vidar and Thomas Langel (Meken Corp. & Hill Country, Inc. dba Gallatin River Ranch) and Thomas C. and Sharon D. Andrews, located in the SE $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 22, T2N, R3E. (High Meadow Road, Gallatin River Ranch). Mr. Scott explained the claimant's justification for the boundary relocation was to convey enough acreage to the Andrew's, the owners of Tract 40, making the parcel 20 acres, so they can receive a property tax reduction. It was the Andrew's understanding when they purchased the property that it was a 20-acre parcel, and upon further investigation it was found to be less than 20 acres. The Andrew's intend to retain Tract 40A as open space and Tract 40 as their residence. They were only moving the lot line and not changing the orientation of the line. He added that because of the topography, Lot 40A was not a build able tract. Based on review and past history in this area, Mr. Scott stated that this claim did not appear to meet the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act. (76-3-201 through 76-3-210 MCA). Upon further staff investigation the following options were suggested for Mr. Andrews to receive a tax deduction: Request from the Montana Department of Revenue a classification of agricultural property, for properties under 20 acres; or purchase the adjacent lot. Thomas Andrews submitted a picture of his property. Mr. Andrews reiterated his reason for the request, adding that it would be very hard to him to do either of the staffs suggested options. He stated that he purchased the property thinking the property was 20 acres. Commissioner Vincent suggested that Commissioner Mitchell should see the picture since she requested it before they made a decision. Even though it was only 4 feet, he was concerned with setting a precedent and he wanted to review the statute. Public comment: Kenneth Vidar commented that it seemed he was being penalized because this was being counted as an exemption he was applying for. He stated that nothing would change at the ranch and they were only doing it because the Andrew's requested it. He explained the definition, of legal land twenties which were created when they did the aliquant parts, noting that the Assessor has a different way to calculate and determine what is or isn't a 20-acre parcel. Commissioner Murdock asked if Mr. Vidar could guarantee there would never be another exemption request by a land buyer for similar reasons. Mr. Vidar replied that it would never happen again although he believed it was to bad that he would have to say no. Further discussion took place with regards to the acreage being on the certificate of surveys and prior to that when it was not required. Commissioner Vincent agreed that this should have gone through subdivision review however in fairness he wanted to learn more about how this was marketed and exact measurements of the acreage. Gallatin County Clerk and Recorder Shelley Vance stated that she would like to verify this however based on her memory this area was created in 20 acre deeds, prior to 1993 before the subdivision law changed. She read into the record how the legal description was written on the Andrew's deed and stated that the acreage was on the certificate of survey. It was agreed that the Commission would continue their decision until January 2, 2003, in order to research some issues. **No action taken.**

The Commission agreed to continue the proclamation declaring December 2002 as Drunk and Drugged Driving (#D) Prevention Month in Gallatin County until December 10, 2002, when a member of the DUI Task Force was in attendance. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 12:45 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 10TH DAY OF DECEMBER 2002

The meeting was called to order by Acting Chairman Jennifer Smith Mitchell at 9:07 A.M., at the Fairgrounds Building #4. Also present were County Commissioner John Vincent and, Acting Clerk to the Board Mary Miller. Commissioner Bill Murdock was excused.

Acting Chairman Mitchell requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

DECEMBER 2-3, 2002

- The Commissioners conducted regular County business.

DECEMBER 4, 2002

- The Commissioners attended a regular scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Bob Denning, Alex Diekman, Gene Gibson, Jose Castro, and Commission Assistant Glenda Howze. The Commissioners discussed a proposal regarding Buffalo Horn Road and the 320 Ranch. The proposal involves moving Buffalo Horn Road so that the Taylor Fork project can close on a purchase of land for their 2nd phase. They will put in a new dedicated right of way and the land owners will give an easement, in exchange for Gallatin County and the Forest service abandoning the current road and relinquishing all rights when and if a road is put in its place. The new road will be Forest Services property. Commissioner Vincent made a motion to agree in principal to the proposal, allowing the group to proceed pending County Attorney approval, contingent upon agreements from the Forest Service and 320 Ranch to the proposal. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the signing of an exemption request to the State for Hotmail accounts/access for Gallatin County law enforcement personnel. Commissioner Mitchell made a motion to approve signing of said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a computer purchase request from the Superintendent of Schools. This purchase was budgeted for in the FY 03 budget. Commissioner Mitchell made a motion to approve the purchase of a computer for the Superintendent of Schools Office. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the statement of work for FY 03 for the MT DES. Commissioner Vincent made a motion to approve said statement of work, based on prior approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of Resolution 2002-127, a resolution designating an authorization agent for the state-local disaster assistance agreement for the pre-disaster mitigation grant program. Commissioner Mitchell made a motion to approve Resolution 2002-127, as stated. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

DECEMBER 5-6, 2002

- The Commissioners conducted regular County business.

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- Landfill Revenue for November 2002: \$99,402.24.

- Payroll for November 2002: \$1,193,305.19.
- Clerk & Recorder's Fees Collected for November 2002: \$90,201.98.
- Application for Cancellation of Taxes for November 2002; \$312.81:
- New Hire Report for November 2002: Jennifer Angelus, Cory Baker, Diana Borum, Tami Cavanaugh, Bonnie Edwards, Jenna Elliott, Sandra Granger, Susan Hegyi, Jennifer Hoffer, Kristin Hutfilz, Jessica Kristof, Michelle Wohl
- Terminated Employees' Report for November 2002: Rayn Limb, Shannon Quinn, David Rickett Jr., Randolph Sailer, Amy Van Dam

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor, dated December 5, 2002, in the amount of \$96,065.94.
2. Consideration of Contract(s): Modification to Contract 98-62, DES/Hazmat/City of Bozeman and Gallatin County; Steve O'Neil- 2002-2003, Snowplowing RID 357, Hyalite Heights; and Big Sky Asphalt, Inc. – RID 382, Canary Lane - Change Order #2, Contract #2003-48.
3. Request for Common Boundary Relocation Exemption for Robert & Marilyn Hathaway/Jean Guinn, located in the E ½ of the SE ¼ of Section 11, T3S, R5E (6 Hodgeman Canyon Road, Bozeman, MT). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. Gallatin County Finance Officer Ed Blackman requested that the modification to contract #1998-062, DES/Hazmat/City of Bozeman and Gallatin County be pulled until he could review it. **Commissioner Vincent moved to approve the consent agenda, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Vincent announced that regular agenda Item #6, the public hearing and consideration of a request for preliminary plat approval for the Sourdough Creek Minor Subdivision was continued until January 7, 2003, at the applicant's request because of additional work to be done in regard to conditions involving fire protection and a trail plan. **No action taken.**

Two vacancies exist on the Board of Adjustments due to the term expirations of Dave Bissell and Betty Bradley. These positions are for two-year terms and will expire on November 9, 2004. Both members were notified and Ms. Bradley expressed a desire to be reappointed and Mr. Bissell notified the Commission that he no longer qualifies due to his change in residence. To date no additional applications were received. There was no public comment. **Commissioner Vincent moved to reappoint Betty Bradley to the Board of Adjustments for a two-year term, expiring November 9, 2004. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

DUI Task Force Director Jenna Caplette reported on the continuation of a presentation of a proclamation declaring December 2002 as Drunk and Drugged Driving (3D) Prevention Month in Gallatin County. Ms. Caplette read the proclamation and reported on the dangers and statistics of driving while drunk and drugged. There was no public comment. **Commissioner Vincent moved to adopt the proclamation declaring December 2002 as Drunk and Drugged Driving (3D) Prevention Month, in Gallatin County. Seconded by Commissioner Mitchell. Commissioner Vincent noted that the next legislature will be considering legislation to drop the allowable limit from .10 to .08, and he believed that would serve to save lives in our state, as Montana has the worst overall record in the country. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Gallatin City-County Health Fund and Health Grants FY 2003 Budgets to include unanticipated grant revenues. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-128. Seconded by Commissioner Mitchell. None voting nay. Motion**

carried.

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Search and Rescue Fund FY 2003 operating budget to include utilization of operating reserves and correction of cash from FY ending 6/30/01 in the amount of \$31,600.00 for the operations of Search and Rescue including capital expenses. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-129. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for M.M. and Norma Jean Anderson, located in the NE ¼ of Section 33, T2N, R4E. (5485 Spaulding Bridge Road, Belgrade, MT). M.M. and Norma Jean Anderson were sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Finding that this claim meets the criteria for the exemption of subdivision regulations allowed under the Montana Subdivision and Platting Act, 76-3-201 through 76-3-210, Commissioner Vincent moved to approve the Anderson family transfer exemption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the consideration of a request from Allen and Associates on behalf of Robert and Sue Laszloffy for final plat approval of the Laszloffy Minor Subdivision, described as Tract 3 of COS 1659, located in the NW ¼ of Section 9, T1S, R5E, P.M.M., Gallatin County, Montana. The request is for a two lot minor subdivision on 20.6 acres, located east of Belgrade just off Airport Road at 4285 Nelson Road. Preliminary plat approval was granted on September 10, 2002. Upon review, Mr. Karp stated that the applicant demonstrated compliance with each of the conditions as required by preliminary plat approval, and recommended final plat approval be granted. There was no public comment. **Commissioner Vincent moved to grant final plat approval for the Laszloffy Minor Subdivision, noting staff recommended that it be granted final plat approval, having found that all the conditions as stipulated have been met. Seconded by Commissioner Mitchell, noting as previously noted in preliminary plat approval that it also meets the Montana Subdivision and Platting Act and state laws. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for preliminary plat approval for the Laden Minor Subdivision for Gaston Engineering on behalf of Ronald Laden. The five lot minor subdivision on 38 acres is located east of Belgrade on Kirsha Lane off Valley Center Road across from Valley Grove Subdivision. The property is described as Lot 5 of Minor Subdivision No. 148 in the NE ¼ of Section 29, T1S, R5E, P.M.M., Gallatin County, Montana. This subdivision is in both the Belgrade City-County Planning jurisdiction and in the Gallatin County Planning Board jurisdiction. Adjoining property owners were notified of the public hearing by certified mail, and notice of the public hearing was published in the High Country Independent Press. The Belgrade City-County Planning Board reviewed this subdivision at their November meeting and recommended preliminary plat approval subject to the conditions, with one member abstaining due to a potential conflict of interest. It was noted that because this was a minor subdivision of another minor subdivision the Gallatin County Road Department was requesting that Harper Puckett be paved all the way to Valley Center Road. It was noted by Belgrade Rural Fire District Assistant Chief Bryan Connelley that the Valley Grove Subdivision fill site is within the maximum travel distance to be used as a fire protection water supply, and also noted that the connection at the fill site needs to be upgraded to a fire hydrant. If the applicant made that upgrade, then that cost would not be required to be paid as a proportionate reimbursement. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate for considering the subdivision, along with the suggested conditions. The Commission needs to make the following determinations: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the

required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. A homeowners association shall be established. e. Lot owners shall adhere to existing covenants for Minor Subdivision No. 148. f. The homeowners association shall participate with the other lot owners on Kirsha Lane for the shared maintenance of Kirsha Lane. g. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. h. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. A copy of the covenants shall be submitted to the Belgrade Planning Office. A copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office. Both submittals shall be 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall approve the covenants and certificate prior to final plat approval. 7. Applicant shall make payment of road impact fees and fire impact fees in accordance with the Gallatin County Subdivision Regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. Kirsha Lane shall be a 60 foot right-of-way, dedicated to the public (or be a public easement in compliance with Gallatin County Subdivision Regulations Section 7-B), paved to County Standards from Valley Center Road to the southwest corner of Lot 4 of Minor Subdivision No. 148, and then County gravel standards to Harper Puckett Road. 11. The developer shall pay a proportionate reimbursement for the use of the Valley Grove Subdivision to the Belgrade Planning Office which will disperse the funds to the entity responsible for the maintenance of the fill site as prescribed in Section 6-E of the Gallatin County Subdivision Regulations. 12. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification must be provided to the County Road Office in writing prior to final plat approval. 13. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 14. The final plat(s) shall show established maintenance easements consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 15. The name of the irrigation ditch owner shall be indicated on the final plat. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Dennis Foreman the applicant's representative stated that they were in concurrence with all of the conditions as proposed by planning staff. Mr. Foreman noted that this is the first time they heard of the Road Department's request with regard to additional paving. He added in response to the Fire Department' request, that they did not have the authority to make improvements to the pond therefore, it would be a condition on them that someone else would have control over. However, they did not have a problem with the condition if Valley Grove were to grant them permission. Further discussion took place with regards to the covenant requiring the applicant to adhere to existing covenants for Minor Subdivision No. 148 but not join the homeowner's association. Mr. Foreman commented that this was never a requirement in the past. Public comment: Jenny Thornburg; Mike Cole, representing the Circle Four Ranch; and Ron Allen. Concerns expressed were: roads and further subdivision in relation to implications to water and density of the neighborhood. George Durkin representing the Gallatin County Road and Bridge Department commented that this was far from a minor subdivision, pointing out several subdivisions of land that

have taken place therefore, he could not see why they were not paving the entire road. They were also requesting that Harper Puckett be paved from the south property line to Valley Center. Belgrade Rural Fire District Assistant Chief Bryan Connelley commented on the improvements needed for the Valley Grove fill site, supporting the fact the applicant should get credit towards their proportional reimbursement for the money spent for fixing the fill site. Further discussion took place with regards to addressing how a proposed subdivision would upgrade equipment belonging to a different homeowners association when they are not a member and not required to join. Gallatin County Road and Bridge Superintendent Lee Provance stated that he believed they should go back to the drawing board on this proposal, as this was reviewed as a minor subdivision plan when it should have plans for a major subdivision with regard to fire protection and roads. Mr. Karp noted that the Subdivision Regulations state subsequent minors are reviewed as majors, and that process was followed however they did not get information from the Road Department in time. He added that he was working on language to incorporate Mr. Connelley's options into the fire protection condition. He also noted that he would add an additional condition, which states: This new subdivision shall participate with the Valley Grove Subdivision for the maintenance of the fill site. Mr. Allen stated that his concern regarding the road and his head gate had been resolved. Mr. Foreman outlined the history regarding division of the ranch. He added that they did not meet the criteria to pave an internal road even if this was considered a major subdivision because they would not have 100 ADT's on the internal loop. Mr. Foreman believed they were in conformance with the Subdivision Regulations. He was in agreement with upgrading the hydrant as long as Valley Grove had no problem with them doing it. Commissioner Mitchell commented that the proposal appeared to be a piece meal development. She would have a greater comfort level if she had a bigger picture with all the roads, lots, and neighboring roads so she could see how it was tied together in order to mitigate impacts that could be created by this development. The applicant Ron Laden pointed out the proposed roads, noting his reason for routing the road as such was to avoid having this as a high-density area with additional traffic. Commissioner Vincent concurred with Commissioner Mitchell, noting that he would prefer additional time so the applicant could provide the requested information. Mr. Laden agreed to an extension until January 2, 2003. **No action taken.**

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Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a resolution to amend the Belgrade Area Plan to Adopt the Belgrade Area Transportation Plan. A resolution of intention was adopted on October 29, 2002. Phil Forbes with Morrison-Maierle presented a series of slides showing the proposed improvements and identified study areas for the overall Belgrade area, worked out by Morrison-Maierle, Department of Transportation, Gallatin County, City of Belgrade and the Gallatin Airport Authority. Belgrade's population was anticipated to exceed 5,000 people with the new census thereby, qualifying it to be considered an urban area. With that qualification, distribution of urban funds from the Department of Transportation was a possibility, requiring a Transportation Plan. A study area was identified working with a 20-year time horizon, along with gathering public input. The Belgrade City-County Planning Board, after having deemed The Belgrade Area Transportation Plan to be in the public interest, recommended adoption of the Plan on February 11, 2002. Mr. Forbes noted that they received comments from the Department of Transportation. Further discussion took place with regards to those comments. The following are some of the proposed improvements and troublesome areas identified: signalization of Jackrabbit and Main; left turn bays to be constructed on Jackrabbit Lane (Cameron Bridge Road); construction of an eastside by-pass; under pass under the interstate (Madison); airport interchange; reconstruct Jackrabbit from Madison to Main Street; proposed that Main Street be reconstructed through town and east to airport; improve Main Street from Jackrabbit Lane to the west; construct Northern Pacific from Broadway to Davis; signalization of Amsterdam and River Rock Road; signalization of Broadway and Main Street; underpass for the school/pedestrian traffic under Jackrabbit Road near Triple Crown Road; ready connection between the residential areas west of the eastside by-pass, the selected location was Park Avenue; reconstruction of the link of Madison and Broadway from Jackrabbit Lane; construction of a pedestrian/bicycle path from Belgrade to Bozeman; signalization of Amsterdam and Thorpe intersection; improvements to Jackrabbit from Main, north to Cruiser; connection of Arizona to Main Street; Madison, Broadway Colorado intersection; connection of Cruiser to Dry Creek; and improvements to standardize intersection of Oregon and Main. Further discussion took place with regard to under or over passes for the railroad. Because of competition with interchanges, Commissioner Vincent suggested some thought should be given to the fact that the new proposed interchange plan could be out 8 to 14 years, depending on federal funding, leaving only 6 years of the 20 year plan therefore most of the 20 year plan would be overtaken without the overpass. He pointed out a concern for the Belgrade City Council with regard to the bypass to the north, noting that it was good idea however if the bypass along with the Park Avenue connection puts a lot of traffic through residential areas, it could generate unhappiness. He noted concern and believed they should pay special attention to the comments relayed by the MDOT letter relative to the 2000 traffic counts and their contention that these counts are consistently lower than their counts and

also the volume projections. Commissioner Mitchell concurred, adding she was very concerned about the comments from MDOT, noting prioritization is part of any master plan. She wanted to know what the priorities were, so the county could assist with Belgrade and work together, with all the future growth, plans, and subdivisions. She did not feel the plan was complete at this point and did not have a comfort level to approve the draft. Rob Buckvich with MDOT had not had the chance to review the letter from the Urban Planning Section. He stated that the intent of the study was to give the City of Belgrade a tool to use for them to set priorities for the federal funds that will be distributed through MDOT. He agreed there were questions about the counts, how they were taken and growth projections however he believed in the final analysis they would still have the same group of projects to consider for prioritization. Mr. Buckvich stated that before any federal funds were spent on any of these projects they would conduct public hearings, analysis, and an environmental assessment. Further discussion took place with regards to the process once prioritization of the projects is determined. Mr. Forbes stated that the transportation plan includes implementation strategies. He wanted go through the plan with MDOT and follow up on the projected traffic volumes for 20 years out. Commissioner Vincent requested that he get back to the Commission once that is reconciled. Gallatin County Road and Bridge Superintendent Lee Provance requested that the Commission protest MDOT's plan to not construct Jackrabbit Lane as a five lane because the improvements will be obsolete when completed. Commissioner Vincent preferred to continue action until they got some reconciliation relative to the traffic counts, as it could make a difference in how they see priorities. He agreed that every point identified as a problem area, were indeed a problem. Commissioner Mitchell concurred, adding that the most current traffic counts, whether from MDOT or the county, or other sources needed to be used for this plan. Mr. Karp stated that there was no problem with continuing action although he added that it was going to be hard to achieve perfection. Commissioner Vincent asked Mr. Karp to verbally communicate with Belgrade City Manager Joe Menicucci and the council that the Commission is in essential agreement that they have successfully identified major traffic problem areas in their plan however their reservations were elsewhere. Action was continued indefinitely. **No action taken.**

Commissioner Mitchell announced a pending resolution on the decision concerning the petition to abandon a portion of an unnamed road south of Lot 13 in the Sourdough Hills Subdivision. Gallatin County Road and Bridge Superintendent Lee Provance briefly updated the Commission with details of the abandonment. Mr. Provance discussed past procedure with regard to dividing up the portion of road that was abandoned. The Commission determined it would be best to continue action until they discussed how the land should be distributed. The Commission agreed to postpone action until proper procedures were followed. **No action taken.**

There being no further business the meeting was adjourned at 11:27 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING **TUESDAY THE 17TH DAY OF DECEMBER 2002**

The meeting was called to order by Chairman Bill Murdock at 9:00 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent, Acting Clerk to the Board Mary Miller and Gallatin County Attorney Marty Lambert.

Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

DECEMBER 9, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell and Vincent, Treasurer Anna Rosenberry, Clerk and Recorder Shelley Vance, Auditor-elect Jennifer Blossom, Finance Officer Ed Blackman, and Commission Assistant Glenda Howze. The Commissioners considered approval of a request for signature on periodic cost estimate #3, Gallatin County RID paving and road maintenance program, 2002. Commissioner Vincent made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request for an external audit of the Auditor's Office. This is a time sensitive matter, and needs to be followed as a matter of standard operating procedure. Commissioner Mitchell made a motion to follow standard operating procedure and proceed with an external audit of the Auditor's Office. The firm chosen will be asked to work with Auditor Schmidt on timing for the audit, but it must be completed by December 31. Commissioner Vincent seconded the motion. In discussion it was noted that the audit will be no more and no less than was previously conducted on the offices of the Treasurer, Open Lands Board Executive Director, and the Sheriff. It was also noted that none of these individuals were in attendance at the time the decision was made to conduct an audit of their offices. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to contract with A Z & Co. for the purposes of said audit, and it will be paid for from PILT. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of budget transfer requests from the Finance Office for the following: County Attorney, General Fund Misc., General Fund Capital Reserves, Poor Fund, District Court, County wide planning, Open Space Fund, public safety, drug forfeiture and PILT. Commissioner Vincent made a motion to approve all requests with the exception of that of the Open Space Fund and PILT. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a change order for Phase III, IV in the amount of \$10,351.00. Commissioner Mitchell made a motion to approve said change order. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

DECEMBER 10, 2002

- The Commissioners conducted regular County business.

DECEMBER 11, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Accounting Clerks Liane Bennett and Jeannie Brown, and Commission Assistant Glenda Howze. The Commissioners considered approval of claim listed on voucher list dated December 5, 2002 including check number 8016268; totaling \$149,997.25. Commissioner Vincent made a motion to approve said claim. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered an extension of contingencies on the Martel Building. The sellers have agreed to extend the contingencies until December 20. Commissioner Mitchell made a motion to authorize the chairman to sign the addendum to the buy-sell agreement contingencies until December 20, 2002. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered formation of a committee to evaluate the RID Engineer proposals. The goal is to have one engineer for all RIDs. Chief Deputy County Attorney Chris Gray has determined that a new RFP needs to be done, fixing the committee appointment to evaluate the proposals. Commissioner Vincent made a motion to appoint Ed Blackman, Larry Watson, and Lee Provance as the evaluation and selection committee for the RID Engineer proposals. Commissioner Mitchell seconded the motion. In discussion it was noted that Mr. Gray would advise the committee. All voted aye. Motion carried with a vote of two to zero.

DECEMBER 12-13, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated December 12, 2002, in the amount of \$229,788.10.
2. Approval of Contract(s): Agreement for Lobbying Services w/Jamison Law Firm, 58th MT Legislature; Detention Services Agreement Between Community, Counseling, and Correctional Services, Inc. and Gallatin County; and Maintenance Pro-Snow removal for Rest Home, L&J, HHS, and Courthouse.
3. Consideration of Request for a Mortgage Survey Exemption for Darwin Schmidt, located in the S ½ SW ¼ NW ¼ of Section 2, T3S, R5E. (8180 Fowler Lane, Bozeman, MT). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

4. Consideration of Request for Mortgage Survey Exemption for Bar Land L.L.C. (Richard Ogle, member), located in the NE ¼ of Section 23, T1S, R4E. (Kenyon Noble Hardware, off Jackrabbit Lane, south of Belgrade). Belgrade City-County Planner Jason Karp reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Auditor Joyce Schmidt requested that receipt of the County Auditor quarterly report ending September 30, 2002, be continued until December 18, 2002, at the Commission office meeting. **No action taken.**

Consideration of approval of a grant application to the Montana Board of Crime Control for continuation of the Community Corrections Program was continued indefinitely. **No action taken.**

Commissioner Murdock noted that regular agenda items #7, 8, 9, 10, 11, 12, and 13, concerning road abandonment's would be continued until January 7, 2003, pending additional information requested by the Commission. **No action taken.**

Gallatin County Finance Officer Ed Blackman reported on the consideration of a resolution of intent authorizing the Clarkston Fire Service Area Board of Trustees to decrease the FY 2003 operating budget to reflect actual revenues. The public hearing is scheduled for January 7, 2003. There was no public comment. **Commissioner Mitchell moved approval of Resolution of Intention #2002-131. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a request for final plat approval for Lewis Burton and Associates, on behalf of Robert and Janice Remer for the Remer Minor Subdivision. The subdivision includes creation of one additional residential lot located in the Bozeman area. Preliminary plat approval was granted March 26, 2002. The staff report noted that it appeared the conditions for final plat approval were met. The applicant Robert Remer requested the Commission grant approval. **Finding that the Planning Department justified all the conditions for final plat have been met as required by State Statute, the Master Plan, the Gallatin County Subdivision Regulations, and all other requirements, Commissioner Mitchell moved approval of the Remer Minor Subdivision. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of final plat approval for Allied Engineering Services, Inc., on behalf of Gallatin Peaks Land & Development, L.L.C., for the Uplands Residential Cluster "B" Major Subdivision. The subdivision includes 16 residential lots and 20 acres of common open space. The subdivision is located south of the West Fork Meadows area of Big Sky. Preliminary plat approval was granted June 15, 1999. Mr. Johnson reviewed all the required conditions for final plat approval and based on his review the applicant met all the required conditions. There was no public comment. **Finding that according to staff all the conditions needed for final plat approval have been met and all applicable requirements have been met or exceeded, Commissioner Vincent moved to approve the request for final plat approval for the Uplands Residential Cluster "B" Major Subdivision. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Murdock announced the process and procedure of the public hearing on a petition to create the Four Corners County Water and Sewer District. Local Water Quality District Manager Alan English spoke in support of the concept of the proposed water and sewer district. He addressed the Commission regarding the benefits of a central water and sewer system in relation to protecting ground water quality and public health. He submitted Exhibit "A", a written copy of his testimony signed by Chairman Phillip Butterfield and himself. They felt that the petitioner's proposal with the changes agreed upon by the Four

Corners Advisory Council on December 4th was reasonable. However, they were concerned if an agreement could not be reached, that the proposed district may not be created. Gallatin County Grants Administrator Larry Watson made comments germane to creating an opportunity for grant and loan funding to increase the affordability and accessibility of water and sewer services for all of the residents of the Four Corners area. He explained creation of the water/sewer district was the paramount issue for eligibility therefore, by creation of a district the eligibility is developed and the capability to pursue federal, state and local funding for water/sewer system service is created. A concern he had was the time line that takes place when developing a proposal for these funds. Typically, that time line is a 3 to 4 year process, and the key to that process is the need to approach the Montana legislature for the bulk of the funding. Since it was too late to put together a proposal for the 2003 session the earliest possible time would be the 2005 session with proposals being developed over the next year and half, for submission to the legislature for consideration. With funding coming out of that session, the earliest they could approach project development would be July 2005, with possible construction in the Spring of 2006. He went on to explain what it takes to acquire this funding and the qualifications, noting that they have not done their homework on the Four Corners area in terms of grant loan eligibility outside the work that has been done by the developers within the boundaries of their own proposed system. He expressed the need for a comprehensive engineering survey that would tell them about growth patterns in the Four Corners area, and an engineering plan for expansion of water/sewer system services in the Four Corners planning area, defined as the growth area. He pointed out one of the major programs that support the accessibility of public facilities to low or moderate-income individuals was the Community Development Block Grant program in Montana. It was noted that Gallatin County has not done a needs assessment under that program since 1994, and in order to be competitive for a proposal in the next legislative session under that program, they needed to do a new needs assessment in Gallatin County. He added that they were only weeks away from signing the contract for that needs assessment, working with the Rural Conservation Development District and with Gallatin Development Corporation as partners. Another very important part of eligibility determination for Gallatin County was the eligibility for Economic Development Authority administration money, of which Gallatin County has never qualified, because unemployment levels have been fairly good, with no significant lay offs in any sectors of our economy until recently. He believed by doing a Community Economic Development survey, Gallatin County would gain eligibility for funding through the Economic Development Administration. With that information they could gain competitive proposals, as current information was severely lacking not only countywide but in the Four Corners area. He believed in fairness to those making major decisions about what was going to happen in the Four Corners area, we as a County should be doing everything possible to gather all the information about all of the programs and disclose every opportunity to the people in the Four Corners area, before decisions were made. Gallatin County Attorney Marty Lambert noted on behalf of the Clerk and Recorder that notice of this hearing was published in the High Country Independent Press on December 5 and 12, 2002. He submitted Exhibit "B", a copy of the notice for the record. Mr. Lambert briefly summarized his response (Opinion No. 02-01) to a series of questions presented to him by the Commission pertaining to the formation of county water and sewer districts. He was provided with another list of questions submitted by the Advisory Committee members, noting many were depictive of questions already answered. Mr. Lambert stated that he would review them and comment later. Bruce Nelson, as construction project manager for Zoot Construction Company representing petitioner Chris Nelson outlined the history of how they got to this point, noting that the Commission suggested the landowners in the area come together and cooperate on a centralized system in the creation of a water and sewer district. They wanted the engineering of the proposed treatment plant, disposal plant, and collection system to not only serve the Zoot and North Star developments but also to be expandable and serve the rest of the Four Corners area in the future. Mr. Nelson pointed out that nobody is in the proposed boundary that does not want to be in the district; nobody was in the proposed boundary that can't afford to be in the district; nobody outside the proposed boundary would pay anything for services of the district until and unless they obtain those services; and it is designed to serve as a core that can be expanded to serve the rest of the Four Corners area in the future. In explaining the funding process required for paying back the bonds, Mr. Nelson stated that Zoot would incur \$2.3 million dollars of indebtedness on their property, and in addition they would have to provide \$525,000 dollars of credit enhancements in the form of those funds in escrow or a letter of credit to guarantee to the bond holders that the initial payments will be paid on the project for the first three years as well as have liens placed against their property. Mr. Nelson went on to explain that after they submitted the petition the Commission appointed the Four Corners Advisory Council of which at that point they thought was a little late because they would have liked to work with them during the process. Although he believed the Commission did a great job of appointing a council that represented diversity and continuity, he added that they were all put in a difficult position, noting it was not always an easy process. However after many meetings, they came up with a Memorandum of Understanding between the petitioners and the Advisory Council that embodies an agreement that accomplishes and reconciled both the needs of the petitioners and the needs of the community. Although he acknowledged there was a question about the status of the MOU and that the County Attorney was going to caution the Commission to make sure they did not get entangled by trying to enforce it, he added both Chris Nelson and himself were Montanan's and one of the great traditions about Montana is our word is our bond, and they intended to

keep their commitments. He was very much aware that there was a lot of work to be done still, adding that this was just the start of a long-term solution to the wastewater treatment and disposal needs of the Four Corners area. He stated they would have to look at taking lines east across Jackrabbit Lane; plant expansion; additional disposal space; and explore the possibility of integrating this core system into a larger system in the future. In conclusion, Mr. Nelson stated that this was good for everyone, giving the petitioners the assurance they need that the district will be formed, the financing can and will be obtained and that construction will be under way in the spring and they have met their final plat conditions. Petitioner Mike Potter spoke regarding the technicalities and legalities of the Memorandum of Understanding, the boundary, and future annexation. He started out by stating the Memorandum of Understanding was from the heart, and reinforced as the designated representative of the petitioners that they were committed, and that they had a moral and ethical responsibility to it. In reference to the boundary he noted three critical things so the district could move forward and those were: that they needed a positive vote; they needed assurances and predictability regarding the financing; and they needed some sort of a schedule that will work as it is being proposed. He stated if they could get this launched, they would then have an open door for annexations. He further expanded on why predictability was so important; noting that this \$9.5 million was loan money and it has to be guaranteed. In conclusion, they had to look at a larger financial perspective and be responsible to their business interest and the interest of their financial institutions. He stated that there were provisions for the annexation process as illustrated and the petitioners group has agreed to allow annexation by ordinance, which does not necessarily require an election. He stated that they had a financial incentive as well because the more people hooking up to this system, the more cost effective it becomes. On behalf of the petitioners, Mr. Potter respectively requested that the Board move forward with this proposal. Lonny Walker, Chairman of the Four Corners Advisory Council reported how this water and sewer district would impact the Four Corners area. The Council concluded: A public water and sewer district would most benefit the Four Corners area, and in that Four Corners would gain some representation in the district. Mr. Walker went on to explain that the council made two proposals to the Commission. The initial proposal was to include some property the petitioners felt their existing facility had the capacity to handle. Since then based on concerns of the petitioners, the Council came up with the Memorandum of Understanding, that was voted on unanimously, with the exception of one council member abstaining. Part of reason they entertained this was that the underlying theme was, they needed to have a district, and they believed this was an opportunity to get something started. The members who voted for the MOU believe the intentions of the petitioners are sincere and genuine. Mr. Walker submitted Exhibit "C", the original MOU regarding the Four Corners County Water and Sewer District, between the Four Corners Advisory Council and the Four Corners Water and Sewer District Petitioners Group. Public comment in support of accepting the petition as presented: Don Regli(Advisory Council member); Judy Cain(Advisory Council member); Dave Pruitt; Kirt Harding; Mike Kvasnick; Helen Daffry(passed); Joann Wattier; and Penni Terry. George Metcalfe encouraged the Commission to continue the hearing in order to accomplish the following: allow members of the community that wish to become charter members of this proposed district to do so now and confirm that they do own property, and are willing to accept liens, etc; and ask the developers for a breakdown of how the costs to install this system relate to the estimates they suggested regarding hook ups and fees. Teri Kolnik spoke regarding many of her concerns. Ms. Kolnik submitted Exhibit "D", a notice to the Gallatin County Commission requesting that both she and her husband as owners of 11 lots in the Rainbow Subdivision be included in the district at its inception. Jerry Ritter (Advisory Council member) spoke in support of the proposal and urged the Commission to consider including property on the eastside of Gallatin Road as Tier 1 properties. Jimmie Lohmeier (Advisory Council member) speaking for the Corners Four Business Park that includes fifteen property owners. Mr. Lohmeier made note that he had statements from 9 owners representing 11 lots, requesting to be included at inception. Tony Kolnik (Acting Vice-Chairman of the Advisory Council) stated many concerns, noting that he was the member who did not sign the MOU. Roland Schumacher owner of three lots in the Corners Four Business Park requested to be included at the inception of the district. Mr. Schumacher spoke in support of the proposal and submitted Exhibit "E", his letter of request. Joe Wilson, representing the Forest Park Mobile Home Park stated that he did not think it was fair that they were included in the boundaries and requested not to be included. They believed they should have an option. Dan Biggerstaff, Vice President of Western Plant Breeders and property owner in the Corners Four Business Park stated at the present time they have their own well and sewer system and that initially they would not want to hook in however they wanted to have the system available, should it be needed in the future. He urged the Commission to go forth and start the process. Richard Smith, a landowner in the Four Corners area spoke in support of the petitioners moving ahead, noting as soon as the system comes on he will petition for annexation. John Kauffman, representing owners of the Four Corners Trailer Park and the Grateful Shed requested that they be included in the district at inception. Since there was no definition of an application in the statute, he wanted it to be known that he was requesting orally as well as having submitted a written request dated November 14, 2002. He also requested that the Commission make a condition of approval that the properties in the Tier 1, waive their right to protest. Don McHenry, as a property owner in Tier 1 requested inclusion in the district. Clinton Cain requested confirmation from the Commission if the system was private or public. Mr. Lambert confirmed that it was a public system. Mr. Cain was in support of the district. Stuart Aasgaard whose property borders on two sides

of the proposed North Star Subdivision, supports the idea of central water and sewer however, he suggested continuing the hearing and proceed with caution. He added that he has never been approached as an adjacent property owner. Frank Silva (Advisory Council member) commented in order to be a true Four Corners Water and Sewer District there needs to be immediate representation by the residents and the businesses already established in the area, as well as the developers. He recommended that the Commission expand the district boundaries to include the Tier 1 properties. If that was not possible he recommended keeping the five developers on the Board of Directors and within one year of inception of the district, three members of the district board will resign and a general election would take place with all the people in the district voting for those vacancies. Mr. Kolnik stated that cost must be identified. He requested that the Commission grant a continuance in order to conduct another work session with the developers and the council. He believed the MOU was unnecessary. Mr. Walker, as a resident, believed one advantage to putting in the district as proposed was that there were a lot of federal and state funds available for covering engineering costs and determining costs. He believed the urgency was that they had a proposed district with people who are financially willing and able to facilitate it and recommended approval of the district as proposed.

The Commission recessed for lunch.

Mr. Lohmeier submitted Exhibit "F", (8) notices from individuals requesting to be included in the district at its inception. Commissioner Vincent requested that the petitioner address the idea of capacity relative to long term planning, and what was possible with regard to expansion and annexation. He also asked the petitioners to address the question of whether or not they would be agreeable with signed affidavits from the Corners Four Business Park as an expression of wanting to come into the district from its inception, and if they were in opposition or that it could not be accommodated, for what reasons. Commissioner Mitchell requested that the petitioner address: details regarding their comment that adding other properties into the district would negatively impact the loan; describe what Tier 1 meant, compared to being added to boundaries now; and the cost to be added into the district at this time. Mr. Potter addressed several of the concerns expressed as follows: the DEQ review process, noting that it was their expectation to be done so they could start construction in the spring or early summer; downsizing facilities, adding that there was no question that a private system would be less costly to build, than a public system; and identification of costs, noting that the \$9.5 million dollar figure was mentioned in the flier that was distributed, as well as anticipated monthly rates; it was confirmed that there was no intent to force anyone into the district, in reference to comments made by the representative for Forrest Park. He pointed out that everything is competitively bid and some estimated monthly rates could come down. He addressed questions about capacity, pointing out a couple of key points regarding the design of the water system and the wastewater treatment system as follows: the water system is a very expandable system, which currently has a 500,000-gallon tank and a number of wells that serve the water supply system including a fire protection capability; and noting the wastewater system is more complicated, because there are certain guidelines to follow for DEQ that are to be used when calculating usage. In conclusion, he added that the Board of Directors has the discretion to allocate the capability of the plant for those who want to annex in. He stated that there are tons of capacity not being used, because it will take years and years for the subdivisions to build out therefore when those who hook up pay their fees it will go into an expansion fund for plant facilities. Mr. Potter stated that the signed affidavits requesting to be a part of the district from inception, presented a huge problem for them. He explained as the designated representative for the petitioners group (PC Development, Zoot, New West, Garden Center, Hot Springs) that they have a certain ability to underwrite the finances and in this case, are willing to put their land up, have assessments put on their land, and they are willing to provide the financial guarantees as wells as approximately \$2 million dollars in financial assurances put into an escrow account to help get this started. He noted that this is a sizable and complex commitment and if variables were thrown in, it would destroy the financial integrity. He believed as a petitioners group, they have shown faith and have gone the distance and he did not think there was anything more they could have done. They had no idea they would encounter all these time delays and problems and noted the urgency to start construction this spring. He stressed that they tried to cooperate and show flexibility and thought coming to peace with the Advisory Council was a huge step however it was very frustrating that several members of that board who signed the MOU, now wanted to include their lands at inception. It seemed inconsistent, problematic and difficult to work with. As the designated representatives, Mr. Potter and Mr. Nelson were instructed to present a letter withdrawal to the Commission, if the board was inclined to change the district boundary as proposed. Further discussion took place regarding annexation and costs. Commissioner Murdock asked Mr. Potter if they would consider passing the MOU as a resolution, which would then be legally binding. Mr. Potter stated that he was absolutely committed to doing so. He pointed out on Exhibit 1 and 3A, the Tier 1 area, noting the infill areas immediately adjacent to North Star, Galactic Park and the Hot Springs. The properties include Corners Four Business Park; Pearson, Jones and Lelind properties; Corner Court; McHenry and Cain property; and all of North Rainbow Subdivision. He noted that it would be easy for them to adjust the Tier 1 boundary and they would be happy to do so. Attorney John Brown stated that each of the petitioners had their own legal council however he

was speaking as council for the district, should it be created. Mr. Brown spoke regarding the legalities of the boundary issue. He asked how many written applications were received by the Commission to be included within the district. The Commission did not have an answer at this time. Mr. Brown agreed with Mr. Lambert's analysis of Section 7-13-2209, which requires a written application process with Commission analyzing those applications. He pointed out that each of those applying are required to show that their property is going to be benefited by inclusion within the district. Based on the today's testimony, he heard no factual testimony that any of the applications stated they would be benefited, which gives the Commission discretion to deny those applications. On behalf of the petitioners, Mr. Brown asked that the Commission use their discretion to deny those applications because they would jeopardizes creation of the district. He reiterated that all the applicants have the ability to be annexed in after the district is created, and the petitioners have discussed how they will facilitate that in the MOU. He pointed out if the district is created it will be governed by the same open meeting laws as the Commission. He asked that the Commission allow the current petition to go forward with the current boundaries and have one election to create the district, elect the board of directors and approve the financing. Mr. Nelson stated that the MOU was a good faith agreement that addressed the concerns of the Advisory Council by assuring annexation of those adjacent areas as soon as possible after the district is created and that they would turn over the board in a reasonable time to local individuals. Mr. Nelson submitted Exhibit "G", the withdrawal letter, and trusted the Commission would honor their request to withdraw the petition if they decided to change the boundary as it was submitted on August 23, 2002. Mr. Lambert asked if the petitioner would be willing to withdraw the letter and allow a few more days so he could work with Gallatin County Clerk and Recorder Shelley Vance to prepare the resolution as well as add some of the properties that have been suggested to Tier 1. Mr. Potter agreed. It was noted the petitioners were in agreement to adding to the Tier 1 properties, as suggested. Further discussion took place regarding which properties were already included in Tier 1. Mr. Potter confirmed that all the properties suggested were already in Tier 1 except the northeast and southeast corner. Surprised by this turn of events, Commissioner Mitchell reminded the petitioner that when it was agreed to have this hearing process started, it was acknowledged that this could take up to four weeks, and she questioned if Mr. Potter relayed that to the group. Mr. Potter apologized and stated that they thought they were underway by having their agreement with the Advisory Council, adding that they would be willing to work with everyone in order to accomplish what they needed to get done. Public comment was closed. Mr. Kauffman requested to view the withdrawal letter. The Commission received letters from the following: Crowley Haughey Hanson Toole & Dietrich, representatives for the petitioners; Four Corners Advisory Committee; several pieces of correspondence from Rosie Foust; Bob and April Meyer, on-site managers of Forest Park Mobile Home Park; Judy Cain; Kaylie Utter; Kirt Harding; Joann Wattier and Margaret Devous; Penny Freeland; Joan and Clyde Mulligan; Hugo Martin; several items of correspondence from Tony Kolnik. It was also noted as part of the record: two recommendations from the Four Corners Advisory Committee; a General Information pamphlet for the proposed Four Corners County Water and Sewer District, dated October 2002; a clarification from the Four Corners Water and Sewer District; and the County Attorney Opinion No. 02-01. Ms. Vance stated that the petition included a written legal description as submitted however; she had a concern regarding the legal description for additional properties, should they be added. Mr. Lambert stated they were going with the petition, as submitted. Noting that public comment was closed and there would be no other meetings, Commissioner Vincent suggested calling a special public meeting, which would allow time for Mr. Lambert and Ms. Vance to review the law and documentation with regard to preparing the resolution. Commissioner Murdock commented on his thoughts of an ideal boundary situation, adding that it is good to think big and plan big for the future. He expressed sympathy for developers who were told under conditions of approval to go out and do a central water and sewer district that involved the public. He apologized for the Commission by not acting sooner on creating the Four Corners Advisory Committee, and allowing more time to work things out. He hoped they could put that aside and come up with a compromise. Commissioner Mitchell stated that it was distressing to have a hammer held over their heads when they were trying to create something that takes a lot of community effort and it was disconcerting because the developers do not want anyone else to be a part of the district at the beginning. She respected all their efforts although she did not have a comfort level because it lacked the ability to have representation on the board of at least one member who lived in the area. Commissioner Vincent stated he was ready to proceed, believing it was a forgone conclusion that they will have at least a sewer district or a combination of districts that will cover the 191-Jackrabbit corridor from Gallatin Gateway to Four Corners to Belgrade and out from Huffine Lane. He believed this was a substantial first step and one that needed to be taken. Noting that the MOU had no legal standing, he believed it was a critical element, and represented a busload of faith and a test of all those who signed on. He added that it had political and public standing, and the ace in the hole was that the petitioner's standing and representation was at stake in this community with this MOU and with the Commission as well, because if the promises and commitments expressed were not met then their standing would be damaged. Commissioner Murdock reiterated that the system was expandable and that DEQ will require it and that the board will accept properties even if they are not included today. He noted that the petitioners will withdraw if the Commission does not accept their petition as submitted, which does take away the Commission's discretion however he believed their reasons were honest. He believed the effort put into this by the petitioner's required prompt action on their

developments behalf. He stated the district under those terms was better than none at all. Mr. Lambert and Ms. Vance agreed they could be ready with the resolution at 8:30 A.M., on December 20, 2002. Mr. Brown confirmed that the letter of withdrawal was solely tied to the boundaries, and there was no time deadlines built in therefore they were in agreement with a continuance. Mr. Brown offered his assistance if needed. Mr. Lambert agreed. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 2:53 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

FRIDAY THE 20TH DAY OF DECEMBER 2002

A special meeting was called to order by Chairman Bill Murdock at 8:40 A.M., at the Willson School Board Room. Also present were County Commissioners Jennifer Smith Mitchell and John Vincent and, Acting Clerk to the Board Mary Miller.

The Commission held a special meeting for the purpose of considering a resolution creating the Four Corners Water and Sewer District. Gallatin County Attorney Marty Lambert received a letter from John Kauffman, on behalf of the Lawrence Trust withdrawing their request that the Four Corners Trailer Park and the Grateful Shed be added to the initial boundaries of the district. Mr. Lambert submitted the letter labeled Exhibit "A". In summary of the resolution, Mr. Lambert read into the record Section 1. Findings. Based on the testimony and evidence presented during the hearing, the Commission finds as follows: a. The Clerk and Recorder received no written protests to creation of the district; b. The properties in the proposed district will benefit from a central sewer and water system; c. The Four Corners area will benefit from a central sewer and water system where properties adjoining or in close proximity to the proposed district might utilize sewer and water services in the future; d. Gallatin County is not responsible for present or future enforcement of any term or condition of the MOU; e. The Petition conforms with the terms and specifications of Title 7, Chapter 13, Parts 22 and 23, MCA; f. Gallatin County was to enter into a Memo of Understanding regarding a study of a sewer and water district in the Four Corners area and did not do so. The Petitioners' reluctance to incur any further delays in the formation of a sewer and water district in the Four Corners area is understandable; g. The public interest is served by immediate formation of a sewer and water district. Withdrawal of the Petition would at best cause lengthy delay in the formation of a district or would at worst result in no public district ever being formed, and would not be in the public interest; h. The Commission has discretion whether to accept the application of any properties for inclusion in the proposed district. 7-13-2209, MCA. The Petitioners made clear their intent to withdraw the Petition in the event the district boundaries were changed from those boundaries specified in the Petition. The Commission therefore declines to add any properties to those specified in the Petition; and i. The public interest is served by simultaneous election of the proposed district, board of directors, and bonded debt for the district. Noting some minor changes to the resolution that she believed would better reflect specific issues and because it would serve as a basis for referral for the petitioners and the public, Commissioner Mitchell suggested the following changes to the resolution: (page 5, Section 1, Findings (h)- modify the last line in order to reflect all the findings, to read: **Based on all of the Findings set forth above**, the Commission therefore declines to add any properties to those specified in the Petition; and (page 3, next to the last whereas change to read) WHEREAS, most of the public **through written and verbal testimony**, supported creation of the district on the terms specified in the Petition. Most of the public desired the creation of a sewer and water district in the Four Corners area. A few landowners wanted to be included in the list of properties subject to annexation pursuant to the MOU. The Petitioners consented to add these properties to the MOU. Further discussion took place with regard to adding additional language to Section 5., Bonded Indebtedness. Additional language was agreed upon by both Mr. Lambert and Commissioner Mitchell on the first two changes however he cautioned with regard to changing anything past Section 1.(i), as the remainder was language from bond counsel. Commissioner Vincent preferred leaving the language of Section 1(h), as it currently reads because; in his mind that was the only reason he was not considering adding additional properties at this time. Further discussion took place to clarify reasons for the changes. Commissioner Murdock suggested the following changes to the resolution: (page 5, Section 1, Findings (b) and (c) to read: (b) The properties in the proposed district will benefit from a **public** central sewer and water system; and (c) The Four Corners area will benefit from a **public** central sewer and water system where properties adjoining or in close proximity to the proposed district might utilize sewer and water services in the future. Commissioner Murdock was in agreement with the changes proposed by Commissioner Mitchell. Commissioner Murdock suggested

adding a whereas to the resolution, noting that the petitioners stated upon creation of the district that they would pass a resolution memorializing the MOU. It was agreed to add the following to the end of page 3): **WHEREAS, Petitioners represented that upon creation of the district, the directors would immediately pass a resolution memorializing the terms of the MOU; and.** Commissioner Mitchell questioned what would happen if the district goes broke before the water and wastewater treatment plants are completed. Mr. Lambert could not say although, he noted that the County was not liable, adding that the district was a separate governmental entity that pays their own debt. She asked if the plant would have to be operating before final plat approval if the lots were dependent on it and if the lots could be sold prior to final plat approval. Mr. Lambert stated he would have to look at the terms and conditions for preliminary plat approval. Commissioner Mitchell commented on some past issues with Mr. Potter regarding trust, mentioning some of the reasons why she was uneasy about this issue, and noting from her experience that it has gotten to a point that trust can only be sealed in a legally binding fashion. However, she stated that she would vote in support, hoping she was not misplacing good judgment with the desire to see this district happen in Four Corners. **Commissioner Vincent moved to adopt Resolution #2002-132, a resolution relating to the proposed Four Corners County Water and Sewer District; determining sufficiency of petition; setting the boundaries of the district; calling for an election on incorporating the district, electing a board of directors and incurring bonded indebtedness for the purpose of acquiring, constructing, furnishing, and equipping a water and wastewater treatment facility, noting the entire content of the petition, and Findings enumerated on page 5 of the resolution with the additional amendments placed into the record. Seconded by Commissioner Mitchell.** Commissioner Vincent would have preferred to add those properties that specifically requested inclusion at the inception of this district because on a common sense level it made eminent sense. He pointed out that there has been a great deal of compromise, noting the draft MOU by the petitioners was as expression compromise, the votes taken by the Advisory Council to modify that petition was an expression of compromise on both sides and addition of two new Tier 1 properties on the other side of Highway 191, was also an expression of compromise. He stated that compromise was a critical element of trust and he hoped everyone involved will continue to follow through. He quoted from the High Country Independent Press, dated December 19, 2002, to make sure his comments made December 18, 2002, upon final adoption were noted. Commissioner Mitchell expressed her concern, should the district fall into financial troubles, adding that it occurred to her by not adding those properties requesting to be included would prevent them from being held liable. Therefore, she was convinced that the risk should be on those who proposed it and then add those additional properties. Commissioner Murdock agreed with both Commissioners Mitchell and Vincent, adding that he was going to vote in favor of the motion and it was his full expectation that within a year someone living in the area would be serving on the board. He believed that this resolution was the best they could do to assure that would happen although it was based on faith. **None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 9:17 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

THURSDAY THE 2ND DAY OF JANUARY 2003

The meeting was called to order by Chairman John Vincent at 9:03 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

DECEMBER 16, 2002

- The Commissioner attended a regularly scheduled office meeting. In attendance were Commissioners Murdock, Mitchell, and Vincent, Commission Secretary Rose Murrish, and Commission Assistant Glenda Howze. The Commissioners considered approval of purchase of a display board for general county office use. Commissioner Mitchell made a motion to pursue the purchase of a display board and carrying case for general use by all county departments.

Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an application to the Board of Crime Control for continued funding of the Adult Drug Treatment Court. Current funding sources run out in September. Commissioner Vincent made a motion to approve said application. Commissioner Mitchell seconded the motion. In discussion it was noted that they will look at taking monies from Alcohol and Drug Services of Gallatin County, with District Court as the overseer, rather than the Sheriff. Commissioner Mitchell noted that she would like to see the judges use the program more. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a request to purchase a computer from Extension Services. This purchase was budgeted for in their FY 03 budget. Commissioner Mitchell made a motion to approve said purchase. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a request to purchase a computer from the Gallatin Rest Home. This purchase was budgeted for in their FY 03 budget. Commissioner Mitchell made a motion to approve said purchase. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

DECEMBER 17, 2002

- The Commissioners conducted regular County business.

DECEMBER 18, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, Shelly Johnson of Alcohol and Drug Services of Gallatin County, Treatment Court Coordinator Mariah Eastman. The Commissioners considered a request for a letter of support for an application to the Montana Board of Crime Control for continued funding of the Adult Drug Treatment Court. Approval of the application was given on Monday, December 16, 2002. If received, the monies will not be supplanting and no new match is required. Finance Officer Ed Blackman has reviewed and approved the application. Commissioner Vincent made a motion to approve the application and draft a letter of support from the Commission. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of claims listed on the voucher list dated December 16, 2002 including check numbers 8016551-8016555; totaling \$5,895.87. Commissioner Vincent made a motion to approve said claims. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a contract with DES/HazMat. Commissioner Vincent made a motion to approve said contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

DECEMBER 19-20, 2002

- The Commissioners conducted regular County business.

DECEMBER 23, 2002

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, Finance Officer Ed Blackman, and Commission Secretary Rose Murrish. The Commissioners considered approval of claims listed on voucher list dated December 18, 2002 including check numbers 8016556-8016576; totaling \$43,154.70. Commissioner Vincent made a motion to approve said claims. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

Auditor Joyce Schmidt presented her quarterly report for quarter ending September 30, 2002 to the Commission. Commissioner Vincent made a motion to receive said report. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an application to the Montana Board of Crime Control for a probation officer training grant. Commissioner Vincent made a motion to support the grant application. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of the annual HB 223 Grant Application from the Gallatin Conservation District. Commissioner Vincent made a motion to approve said application. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commission held a special meeting on December 23, 2002, at 10:40 A.M. for consideration of a resolution acknowledging an alternative regular public meeting date of January 2, 2003, and a

resolution changing the location of the regular public meetings during the year of 2003. In attendance were Commissioners Bill Murdock and John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Vincent moved to approve Resolution #2002-133, acknowledging an alternative regular public meeting date of January 2, 2003. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Vincent moved to approve Resolution #2002-134, changing the location of the regular public meetings during the year of 2003. Seconded by Commissioner Murdock. None voting nay. Motion carried. The meeting adjourned at 10:45 A. M.

DECEMBER 24, 2002

- The Commissioners conducted regular County business.

DECEMBER 25, 2002

- The Commission office was closed in observance of Christmas.

DECEMBER 26-27, 2002

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated December 24 and 27, 2002, in the amount of \$970,002.72.
2. Approval of Contract(s): Juvenile Supervision Agreement for Services with Mountain Peaks, Inc.
3. Resolution Adopting the Competitive Sealed Proposal Procedure for Gallatin County Election Computer Solution.

Commissioner Vincent announced that regular agenda Items #7, continuation of a request for common boundary relocation exemption for Vidar/Langel & Andrews and #8, public hearing and consideration of a Conditional Use Permit for Northwestern Energy would be continued indefinitely.

Commissioner Mitchell read the consent agenda. Gallatin County Clerk and Recorder Shelley Vance requested that consent agenda Item #3, be placed on the regular agenda for discussion. **Commissioner Murdock moved to approve the consent agenda, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the resolution adopting the competitive sealed proposal procedure for the Gallatin County Election Computer Solution. Ms. Vance explained that they were searching for new voter registration software that will improve voter registration procedures and be in compliance with the National Voter Registration Act. Rather than going through a formal bidding process, she requested that the Commission allow them to go through a request for proposal so they could investigate more thoroughly. The committee that would do the evaluation of the proposals would be Gallatin County Network Specialist Gene McCloney, Chief Deputy Clerk and Recorder Eric Semerad, and Ms. Vance. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-001. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Two vacancies exist on the Belgrade City-County Planning Board due to the term expirations of Henry Parsons and Michele Corriel. These positions are for two-year terms and will expire on December 31, 2004. Both members were notified and both submitted applications indicating their desire to be reappointed. To date, two additional applications have been received from Dennis Henthorn and Don Bianchi. There was no public comment. **Commissioner Murdock moved to re-appoint Henry Parsons. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved to re-appoint Michele Corriel. Seconded by Commissioner Murdock. None voting nay. Motion carried.** One vacancy exists on the Big Sky Transportation District due to the term expirations of John Flach. This position is a one-year term and will expire on December 31, 2003. Mr. Flach was notified and did not respond. To date, one additional application has been received from Paula Blend. Commissioner Murdock suggested continuing this appointment in order to confirm whether or not Mr. Flach wishes to be reappointed. There was no public comment. The Commission was in agreement to a continuance. **No action taken.** One vacancy exists on the Community Corrections Board due to the resignation of Earl Peace. The appointee to this position will fill out the remainder of Mr. Peace's term, to expire on July 14, 2003. To date, one additional application has been received from Katherine Donath. There was no public comment. **Commissioner Mitchell moved to appoint Katherine Donath. Seconded by Commissioner Murdock.**

None voting nay. Motion carried. Three vacancies exist on the Fair Board due to the term expirations of Dale Nerlin, James Sims, and Robert Brekke. These are two-year terms to expire on December 31, 2004. All three members were notified and submitted applications indicating their desire to be reappointed. To date, two additional applications have been received from John Marler and Joel Farrell, Jr. There was no public comment. Commissioner Mitchell suggested re-appointing the three that re-applied, and making a recommendation to the Fair Board to appoint John Marler and Joel Farrell, Jr., to the Advisory Board.

Commissioner Murdock moved to re-appoint Dale Nerlin, James Sims and Robert Brekke. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell made note that they would make a formal recommendation to the Fair Board regarding appointment of the Advisory Committee. One vacancy exists on the Fairview Cemetery District Board due to the term expiration of Richard Bruce Schendel. This is a three-year term, to expire on December 31, 2005. Mr. Schendel was notified and submitted an application indicating his desire to be reappointed. There was no public comment.

Commissioner Mitchell moved to re-appoint Richard Bruce Schendel. Seconded by Commissioner Murdock. None voting nay. Motion carried. Two vacancies exist on the Gallatin County Planning Board due to the resignation of Paulette Neshiem and term expiration of Howard Van Noy. These two-year terms will expire on July 31, 2004. To date, three applications were received from Joseph Mangiantini, Mary D. W. Jacobs and Eugene Miceli; meeting residential qualifications. Additional applications were received from Allen Miller and Katherine Donath; both do not meet residential qualifications. There was no public comment. Commissioner Murdock pointed out that they appointed Eugene Miceli as an interim replacement on the Community Corrections Board and noted that his length of residency in Gallatin County has only been three months therefore; he was not in favor of appointing him at this time.

Commissioner Mitchell moved to re-appoint Joseph Mangiantini. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock moved to re-appoint Mary Jacobs. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Two vacancies exist on the Logan Landfill Advisory Board due to the term expirations of Dr. Edward King and Robert Marshall. These are three-year terms to expire on December 31, 2005. Both members were notified, and to date, Dr. King indicated his desire to be re-appointed and Mr. Marshall did not respond. To date, no additional applications have been received. There was no public comment.

Commissioner Mitchell moved to re-appoint Dr. King. Seconded by Commissioner Murdock. None voting nay. Motion carried. The Commission agreed to continue appointment to the second vacancy until after contacting Mr. Marshall to confirm whether or not he wished to be re-appointed and if not they will continue to advertise. One vacancy exists on the Manhattan City-County Planning Board due to the term expiration of Carl Schutter. This is a two-year term to expire on December 31, 2004. Mr. Schutter was notified and did not respond. To date, two additional applications have been received from Dan Nagel and Kristen Swenson. There was no public comment. The Commission agreed to continue appointment to this board until contacting Mr. Schutter to confirm whether or not he wished to be re-appointed.

No action taken. One vacancy exists on the Meadowview Cemetery District board due to the term expiration of Martin Douma. This is a three-year term to expire on December 31, 2005. Mr. Douma was notified and indicated that he wishes to be re-appointed to the board. To date, no additional applications have been received. There was no public comment.

Commissioner Murdock moved to re-appoint Martin Douma. Seconded by Commissioner Mitchell. None voting nay. Motion carried. One vacancy exists on the Mosquito Control District due to the term expiration of Dewey Schmitt. This is a three-year term to expire on December 31, 2005. Mr. Schmitt was notified and submitted an application indicating his desire to be re-appointed to the board. To date, one additional application has been received from David Sullivan, but he is not qualified, as he does not live within the district. There was no public comment.

Commissioner Mitchell moved to re-appoint Dewey Schmitt. Seconded by Commissioner Murdock. None voting nay. Motion carried. One vacancy exists on the Pedestrian Traffic Safety Committee due to the term expiration of Ralph Zimmer. This is a four-year term to expire on December 31, 2006. Mr. Zimmer was notified and indicated that he wishes to be re-appointed to the board. To date, no additional applications have been received. There was no public comment.

Commissioner Murdock moved to re-appoint Ralph Zimmer. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Appointment to the Planning and Zoning Commission was continued until the January 28, 2003, public meeting as the position does not officially expire until February 1, 2003.

No action taken. One vacancy exists on the Tax Appeal Board due to the term expiration of Phil Olson. This is a three-year term to expire on December 31, 2005. Mr. Olson was notified and indicated that he wishes to be re-appointed to the board. To date, no additional applications have been received. There was no public comment.

Commissioner Mitchell moved to re-appoint Phil Olson. Seconded by Commissioner Murdock. None voting nay. Motion carried. Two vacancies exist on the Weed Board due to the term expirations of Jeffrey Littlefield and Leo Schlenker. These are three-year terms to expire on December 31, 2005. Both members were notified and both indicated a desire to be re-appointed to the board. To date, two additional applications have been received by Drusha Mayhue and Linda Wallace. There was no public comment.

Commissioner Mitchell moved to appoint Drusha Mayhue. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Mitchell moved to re-appoint Jeffrey Littlefield. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Chief Civil Deputy County Attorney Chris Gray reported on the public hearing and consideration of acceptance of dedication to public use of a 60-foot non-exclusive perpetual easement for public access as shown on Minor Subdivision Plat #303, Lot 1. Mr. Gray explained that this document was perpetuated due to lack of dedication being placed on the plat for Minor Subdivision #303, noting that this is normally accepted with plat approval. There was no public comment. **Commissioner Mitchell moved to grant the 60-foot non-exclusive perpetual easement for public access, as outlined in the document. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Chief Civil Deputy County Attorney Chris Gray reported on the public hearing and consideration of the first reading of Dog Control Ordinance #2003-01. Notice was published in the High Country Independent Press. Mr. Gray explained the ordinance adoption procedure of which normally the first reading is read into the record. However since sufficient copies were made available to the public, he noted that the Commission could dispense with reading the entire ordinance aloud and that he would only outline the amendments. **Commissioner Vincent clarified by reading into the record only those parts that are subject to change, the Commission could dispense with reading aloud the entire ordinance, most of which currently exists. Commissioner Murdock motioned approval. Seconded by Commissioner Vincent. None voting nay. Motion carried.** Mr. Gray summarized the amendments to the dog control ordinance as follows: (page 3) 4)B. Penalty for Dogs at Large. The owner of a dog at large in violation of this section shall for conviction of a first offense, be fined not more than ~~TWENTY FIVE DOLLARS (\$25.00). FIFTY DOLLARS (\$50.00);~~ and 6)A. A barking dog is ~~The owner of any dog which~~ unreasonably annoys or disturbs any person by continuous and habitual ~~loud and continuous~~ barking, howling, or yelping, crying or whining., or any other condition which endangers safety or health, is offensive to the senses or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number or persons shall be in violation of state public nuisance law. Under state law a person maintaining a public nuisance shall be fined not to exceed \$500 or imprisoned in the county jail for a term not to exceed 6 months or both. Each day of such conduct constitutes a separate offense.; B. An owner of a barking dog is guilty of a misdemeanor; and C. Penalty for Barking Dogs. The owner of a barking dog in violation of this section shall for conviction of a first offense, be fined no less than FIFTY DOLLARS (\$50.00). The Commission received the following correspondence: email from Kyle Klicker, dated December 31, 2002, in favor; and a letter from Chris and Beth Pierce, dated December 29, 2002, in favor. Commissioner Murdock received a phone call from Martin Whitmont stating that barking dogs were a problem. Gallatin County Animal Control Officer Pat Hess stated that basically she found the previous barking ordinance unenforceable because of the way it was worded, leaving her no recourse. Ms. Hess believed this would really help. The seconded reading of the ordinance will be held January 21, 2003. Mr. Gray noted the statute authorizing the Commission to take this action has an exclusion therefore, he asked the Commission to make a substantive change to the ordinance at its first reading by placing the following in 6)A, after the word whining: This section may not apply to a dog that is owned, kept, or harbored as part of the business of a licensed veterinarian, animal boarding facility, or agricultural or livestock operation. There was no public comment. **Commissioner Mitchell moved to pass Ordinance #2003-01, with the substantive change correlating it with the State Statutes for Mr. Gray. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the consideration of a resolution of intent to increase the Gallatin County Joint Dispatch FY 2003 budget to receive unanticipated revenues for the Department of Justice COPS Technology Grant Program. 911 Communication Services Director Ben Hess stated that the money was much needed and would go into improving repeater sights, improve the ability to communicate in the field, and update equipment in the center. **Commissioner Murdock moved to approve Resolution of Intention #2003-002. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the continuation of a public hearing and consideration of a request for preliminary plat approval for the Laden Minor Subdivision, a five-lot subdivision on 38 acres. The subdivision is located east of Belgrade on Kirsha Lane off Valley Center Road across from Valley Grove Subdivision. The property is described as Lot 5 of Minor Subdivision #148 in the NE ¼ of Section 29, T1S, R5E, P.M.M., Gallatin County, Montana. The Commission reviewed this preliminary plat at their December 10, 2002, public hearing and with the consent of the applicant, the Commission tabled their review so the developer could provide more information regarding how this

subdivision is oriented to other properties in the area. The applicant submitted an overall map to the Commission prior to this hearing. Noting major concerns at that hearing were directed towards roads, paving and fire impacts, Mr. Karp reviewed the changes and additions recommended for the suggested conditions at the December 10, 2002, hearing as follows, accented by italics:

1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates.
2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval.
4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat.
5. The developer shall record covenants on the final plat including the following provisions.
 - a. Requiring control of county declared noxious weeds.
 - b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
 - c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law.
 - d. A homeowners association shall be established.
 - e. Lot owners shall adhere to existing covenants for Minor Subdivision No. 148.
 - f. The homeowners association shall participate with the other lot owners on Kirsha Lane for the shared maintenance of Kirsha Lane.
 - g. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done.
 - h. *The homeowners association shall participate with the Valley Grove Subdivision for the maintenance of the Valley Grove Subdivision fill-site.*
6. A copy of the covenants shall be submitted to the Belgrade Planning Office. A copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office. Both submittals shall be 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall approve the covenants and certificate prior to final plat approval.
7. Applicant shall make payment of road impact fees and fire impact fees in accordance with the Gallatin County Subdivision Regulations.
8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.
9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.
10. Kirsha Lane shall be a 60-foot right-of-way, dedicated to the public (or be a public easement in compliance with Gallatin County Subdivision Regulations Section 7-B), paved to County Standards from Valley Center Road to the southwest corner of Lot 4 of Minor Subdivision No. 148, and then County gravel standards to Harper Puckett Road.
11. *The developer shall be responsible for upgrading the Fire Hydrant at the Valley Grove Subdivision fill-site in accordance with Belgrade Fire Department Specifications (if the hydrant can not be upgraded the developer will provide to final plat approval).* The developer shall pay a proportionate reimbursement for the use of the Valley Grove Subdivision to the Belgrade Planning Office, which will disperse the funds to the entity responsible for the maintenance of the fill site as prescribed in Section 6-E of the Gallatin County Subdivision Regulations. *The cost of upgrading the hydrant at the Valley Grove fill-site as noted above shall be deducted from the proportionate reimbursement amount.*
12. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification *and a copy of the homeowners association by laws and covenants* must be provided to the County Road Office in writing prior to final plat approval. *A two-year written warranty must be provided to the County for required paving of County maintained public roads.*
13. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights.
14. The final plat(s) shall show established maintenance easements consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done.
15. The name of the irrigation ditch owner shall be indicated on the final plat. **Additional conditions as recommended by the Road Department:**
16. *The developer shall provide a county standard access to the undivided land west of Lots 2 and 3 as approved by the Gallatin County Road Department;*
17. *A detailed signage and drainage plan shall be submitted to the County Road Office for approval prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP signs and other regulatory or warning signs may also be*

needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition; 18. An encroachment permit is required for the Kirsha Lane access to Harper Puckett Road and the final plat shall show a no access strip for vehicles along the east boundary of Lot 5 except at County approved encroachments; 19. Harper Puckett Road shall be paved to County Standards from Valley Center Road to the south boundary of Lot 5; 20. The developer shall provide a detailed traffic study to the Road Department to identify off-site traffic impacts the development will have on Harper Puckett Road. The study will be used to identify primary and secondary access roads, as well as collectors and arterials in the area of impact. Findings from this study may result in the need to have additional right-of-way along certain county maintained roads dedicated to the public; and 21. 45 feet of Harper Puckett Road west of the centerline shall be dedicated to the public on the final plat for the entire width of the subdivision. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp briefly discussed which roads the applicant intends to construct to gravel standards and pointed out the ones they intend to pave. He added that they would like to keep Harper Puckett Road gravel to Valley Center Road. The Belgrade Rural Fire Department is in agreement with the changes. Mr. Karp suggested adding the following to condition #16) *The developer shall provide a county standard access to the un subdivided land west of Lots 2 and 3 and un subdivided land south of the subdivision as approved by the Gallatin County Road Department.* It was noted as an update to the conditions, the Road Department was in agreement to striking condition #20. Mr. Karp also pointed out a memo dated December 31, 2002, written by Gallatin County Planning Director Jennifer Madgic regarding the applicant's wish to request a variance from certain road standards recommended by the County Road Department. In her opinion if the applicant wished to not pave those roads then the applicant would have to request a variance which would be stated at this meeting, followed by a continuance and re-noticing. Based on concerns expressed by the Road Department, Ms. Madgic addressed her memo adding that she believed a variance process would be the best way to deal with this situation. Mr. Karp noted because of other paving requests by the Road Department, he recommended changing condition #10 to read as follows: Kirsha Lane shall be a 60-foot right-of-way, dedicated to the public (or be a public easement in compliance with Gallatin County Subdivision Regulations Section 7-B), paved to County Standards from Valley Center Road to ~~the southwest corner of Lot 4 of Minor Subdivision No. 148, and then County gravel standards to Harper Puckett Road.~~ George Durkin, on behalf of the Gallatin County Road Department stated that the accumulative affect of all the minors and cluster development in the area was going to create more impact on Harper Puckett therefore they believed paving was warranted. He added that their request for access to the un subdivided land was per the Subdivision Regulations. The applicant's representative Dennis Foreman of Gaston Engineering stated that the proposed access road to the west would not be a deal breaker however their preference was not to go to the south because of a canal that runs across the south property. He added that the representative of the landowner to the south was at the Planning Board meeting and expressed concern about encroachment upon his property. He spoke regarding condition #10, noting that their proposal was to use Valley Center as their primary access with Harper Puckett servings as their secondary emergency access by the extension of Kirsha Lane. He noted unless there are 100 ADT's they would not be required to pave internal subdivision roads. He explained in this development that they would have 12 lots, which was 96 ADT's therefore they did not met the criteria of the Subdivision Regulations requiring paving of internal roads and for that reason did not request a variance. He requested that they not be required to pave the portion of Kirsha Lane, because they did not want to encourage traffic in that area. They were in agreement with the fire fill-site conditions. In response to Ms. Madgic's memo, Mr. Foreman stated if the Commission concluded that Harper Puckett is a primary access and should be paved they would ask for a variance however, they did not agree because it was their belief that it was not the primary access. Noting it was possible for the applicant to further subdivide, Commissioner Mitchell commented that the applicant was adding impact and she was glad they were willing to provide the road to the west however she needed more information regarding the road to the south. She believed that Kirsha Lane was an important part to the access and was inclined to require paving. Commissioner Murdock concurred and suggested that the applicant apply for a variance. Mr. Foreman stated if the board were set on paving Harper Puckett it would be a deal breaker, adding that they will come back and increase the density of the proposal to offset the required improvements because it was not economically feasible to pave for 4 lots. Believing that the road should be paved, Commissioner Murdock encouraged them to come back in with higher density. He viewed this as a good area for infill. Commissioner Mitchell concurred, noting that it would be more consistent with what is currently happening in the area. Ms. Madgic suggested that the Commission approve the request with the conditions, and then it would be up to the applicant whether or not they wanted to follow through. Mr. Karp agreed that the irrigation canal to the south would be problematic with regard to access therefore, it was suggested leaving condition #16, as it currently reads. **Commissioner Murdock moved to approve the Laden Minor Subdivision as presented with the conditions as amended and read into the record, finding it comports with the Belgrade Area Master Plan, Gallatin County Plan, State Statute, and the Subdivision Regulations. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the continuation of a request for a common boundary relocation exemption for Vidar/Langel, located in the NW ¼, NE ¼ of Section 22, T2N, R3E. (Deerhaven Road, Gallatin River Ranch). Mr. Scott provided the Commission with copies of the COS and the Gallatin River Ranch brochure and briefly outlined the proposal. The claimants proposed the boundary relocation to better utilize existing roads and to enhance the property. It was noted based on prior history of exemptions by the applicant, that it was unclear whether this claim meets the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act. Mr. Scott noted without prior history, it was staff's opinion that it would meet the criteria for an exemption. Discussion took place with regards to the access. Commissioner Murdock stated that he was not going to support the request, noting if this were a proper use of the exemption, then access would not be a concern. He noted that the history of tract showed 6 different requests for relocation of boundaries, and believed this was an attempt to evade the act. In looking at the topographical constraints and concerns that have been raised, Commissioner Murdock was sure the Commission would not have seen 20-acre tracts laid out as they are now if the applicant had gone through subdivision review. Commissioner Mitchell concurred that this should have gone through subdivision review however noted that the developer was allowed to do the division at the time according to the statutes. Because they were not changing the size of lots and only changing the direction of the boundary, she did not believe it was that serious of a situation. To her it appeared to be a common sense need. Ms. Madgic noted that this property was subject to a Supreme Court decision. She explained at one point the owners of this property attempted to change all the boundary lines that looked quite different and the Supreme Court said, no that it was a clear evasion of the Montana Subdivision and Platting Act. Since then over the years there has been a continuation of minor adjustments to the existing COS's. The Planning Department questioned if they were getting to where the Supreme Court said no with piecemeal and that is why they are before the Commission. **For reasons mentioned in this hearing and entered into the record at the prior hearing that this would be an evasion and abuse of the exemption of relocation of common boundaries, including all the staff reports, court case and language from Judge Moran's decision, Commissioner Murdock moved to deny this request. Seconded by Commissioner Mitchell, adding that the Planning Director laid it out, making it clear and this was piecemeal to get what was originally requested, adding that is why she supported the motion. Realizing there was a common sense rationale behind the application, Commissioner Vincent agreed with the Commission. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of request for a family transfer exemption for James Anderson Jr., located in the W ½ of the NE ¼ and the E ½ of the NW ¼ of Section 9, T3S, R4E, P.M.M., Gallatin County, Montana. (2495 Cottontail Road). Mr. Scott briefly outlined the staff report. W. James Anderson Jr. was sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Finding this is the proper use of the exemption and satisfied with the applicant's answers, Commissioner Murdock moved to approve the family transfer for Anderson. Seconded by Commissioner Mitchell, adding that it appears to meet the criteria for the exemption in Subdivision Regulations as allowed in the Statutes. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Ray J. and Carolyn Tatarka, located in the SE ¼ of Section 28, T1S, R5E, P.M.M., Gallatin County, Montana. (Hidden Valley Road). Mr. Scott briefly outlined the staff report, noting history of prior exemptions, which made it unclear whether this claim meets the criteria for the exemption to subdivision regulations, allowed under the Montana Subdivision and Platting Act. He noted without the prior history, the exemption seemed to meet the criteria, subject to testimony. Mr. Scott summarized the prior history, noting that there were no subsequent sales. Carolyn Tatarka was sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Murdock moved to approve the family transfer for the Tatarka's, finding it met the exemption criteria, adding that he was satisfied based on the record, visuals and testimony that it is the proper use of the exemption. Seconded by Commissioner Mitchell, adding that she was in support based on the testimony given by Ms. Tatarka, noting that the remainder has been kept together and remains in agriculture and it has not been subdivided, sold and piecemealed. Because all previous exemptions have been within the family, she was convinced it was a proper use. None voting nay. Motion carried.**

Open Lands Board Coordinator Mike Harris reported on the public hearing and consideration for Level One approval of authorization of grant funds in the amount of \$130,000 from the Gallatin County Open Space Fund for the Rimkus Conservation Easement. The easement is approximately 202.856 acres on lands west of Belgrade on the West Gallatin River. The Rimkus family along with the Trust for Public Lands, and the Gallatin Valley Land Trust submitted their application on November 15, 2002. On December 9, 2002, the Open Lands Board voted to give initial approval of Level One funding for \$130,000 for the easement. The project has important natural resource values and is a significant demonstration of utilizing several programs including Farmland Protection and Wetlands Reserve both administered through the Natural Resource Conservation Service to protect an important piece of property. The commitment by the Commission and the Open Lands Board to fund the \$130,000, will allow them to seek matching funds through the Farmlands Protection Program. The estimated fair market value of the total conservation easement is \$462,000. The match will be roughly 72 percent of the fair market value. If both applications presented today are approved along with others that have been given Level One approval, there will be \$6,352,344 dollars left of the Open Lands bond money. The County Attorney reviewed this request and the Planning Department will review before Level Two funding. Commissioner Vincent noted that the November 12, 2002, letter from the Gallatin Valley Land Trust did a very nice job of informing the public of the value of this property. Public comment: Grace Morgan, Open Lands Board member noted that both requests on today's agenda were nothing but good because they both bordered other valuable land. **Commissioner Murdock moved to approve the Level One approval of the Rimkus Open Land Board's bond money application. Seconded by Commissioner Mitchell, adding that the report and the locations of the other conservation easements mentioned by Ms. Morgan were helpful.** Further discussion took place with regards to the criteria and processes for obtaining the Open Lands bond money. **None voting nay. Motion carried.**

Open Lands Board Coordinator Mike Harris reported on the public hearing and consideration for Level One approval of authorization of grant funds in the amount of \$133,000 from the Gallatin County Open Space Fund for the Sievert Conservation Easement. The easement is approximately 160 acres of land 5 miles southeast of downtown Bozeman off Mount Ellis Road. The Sievert family along with the Trust for Public Lands, and the Gallatin Valley Land Trust submitted their application on November 15, 2002. On December 9, 2002, the Open Lands Board voted to give initial approval of Level One funding of \$133,000 for the easement. The project has important agricultural and natural resource values. The total estimated fair market value of this easement is \$442,000, and \$309,000 will be coming from matching funds or donated portions from the Gallatin Valley Land Trust and the Trust for Public Lands. They are getting a 30 percent match. The County Attorney reviewed this request and the Planning Department will review before Level Two funding. Jim Madden, on behalf of the Gallatin Valley Land Trust pointed out in addition to the open space and habitat values; there are significant cultural values. **Commissioner Mitchell moved to approve the Level One approval of authorization of grant funds in the amount of \$133,000 for the Seivert conservation easement as part of the Level One approval. Seconded by Commissioner Murdock, adding that both requests are helping continue agricultural production. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:36 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 7TH DAY OF JANUARY 2003

The meeting was called to order by Chairman John Vincent at 9:03 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock and, Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

DECEMBER 30-31, 2002

- The Commissioners conducted regular County business.

JANUARY 1, 2003

- The Commission Office was closed in observance of New Year's Day.

JANUARY 2, 2003

- The Commissioners attended a special meeting for the purpose of electing the new Chairman for the Board of County Commissioners. In attendance were Commissioners Vincent, Murdock and Mitchell and Commission Secretary Rose Murrish and Commission Assistant Glenda Howze. Commissioner Murdock made a motion to appoint Commissioner John Vincent as Chairman of the Board of County Commissioners for 2003, effective immediately. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

JANUARY 3, 2003

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated January 2, 2003, in the amount of \$10,366.84.
2. Approval of Contract(s): Agreement for Lobbying Services for MT 58th Legislature Session w/Don Hargrove; and Prouse Construction – RID Snowplowing FY 2002-2003.
3. Request for Common Boundary Relocation Exemption for Charles W. & Lois L. Kent located, on Government Lots 4 and 5 and the SE ¼ of the SW ¼ of Section 18 part of the NW ¼ of the NE ¼ and part of the NW ¼ of Section 19, T1N, R1E, PMM, Gallatin County, MT. Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Mitchell moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Vincent announced a request from Martin E. Gagnon, of Morrison-Maierle, Inc., on behalf of PC Development to removed regular agenda Items #4, 5, and 6, (Road Petitions #805, 806, and 807) considerations of road abandonments in the Rainbow Subdivision of Bozeman Hot Springs. The request was to table them until final plats for the Northstar Subdivision are ready for consideration by the Commission due to concerns regarding how these road abandonments would be affected at such time. Prior to the meeting Commissioner Vincent contacted the petitioner regarding regular agenda Item #3, (Road Petition #809) consideration of a road abandonment in Peakview Subdivision #2, and asked him for a continuance of one week, in order to obtain a letter from the Gateway Fire Board, indicating that there is no compromise to the public safety in regard to that road abandonment. Although regular agenda Item #8, (Road Petition #810) consideration of a road abandonment in the Rainbow Subdivision of Bozeman Hot Springs, submitted by Randy Cain was not in the request to be continued relative to the Northstar development, it was noted that Gallatin County Road Superintendent Lee Provance requested it be continued until more is learned, given the information requested or until the Northstar Subdivision is given final plat approval. Gallatin County Clerk and Recorder Shelley Vance noted that there had been some confusion on regular agenda Item #7, (Road Petition #808) consideration of a road abandonment in the Rainbow Subdivision of Bozeman Hot Springs, to abandon a portion of an alley, submitted by Lonny Walker. Apparently it was noted in the record on December 17, 2002, that his petition was withdrawn. Ms. Vance spoke with Mr. Walker and he did not want to withdraw his petition. It was determined that notice was not properly given and on the advice of Deputy County Attorney Kate Dinwiddie, if the Commission wished they could proceed with this petition after she re-published the notice and re-sent notification to everyone including anyone who protested. Ms. Vance stated they would be able to consider this petition on January 21, 2003. Commissioner Murdock did not believe this petition should be included with the rest of the petitions submitted by the developers of the Northstar Subdivision, as it was a separate isolated issue. He suggested that the Commission take Ms. Vance's recommendation. The Commission concurred. Ms. Vance concurred that regular agenda Item #8, should be included with the other abandonments relative to the Northstar Subdivision.

Commissioner Murdock suggested they follow Mr. Provance's recommendation. As an update of the prior hearing, Commissioner Mitchell reiterated that the Commission requested that the developers provide them with an existing map of the platted roads that are proposed to be abandoned and an overlay of their proposal to see how it would impact all of the properties and accesses. To date, they have received a plat of the new layout and did not receive an overlay situation where they could compare them. It was agreed by all to continue regular agenda Items #3, 4, 5, 6, 7, and 8, and noted that they would update the public relative to any subsequent action. Dave Pruitt pointed out ditches in the area and suggested that the Commission consider access to ditches and head gates when making their decision. He pointed out some of the areas proposed to be abandon and stated that they would be the logical right-of-ways should the Sewer and Water District expand in the future. **No action taken.**

One vacancy exists on the Mount Green Cemetery District Board due to the term expiration of Chan Cooper. This position is for a three-year term and will expire on December 31, 2005. Mr. Cooper was notified and indicated a desire to be reappointed to the board. To date, no additional applications have been received. There was no public comment. **Commissioner Mitchell moved to re-appoint Chan Cooper. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Alan Armstrong reported on public hearing and consideration of a resolution for a road name change in Gallatin County. (Fer Nan Way to Gray Owl Lane). Residents in Big Sky initiated the petition. Public comment in support: Dudley Livingston and Jim Johnson. **Commissioner Mitchell moved to approve Resolution #2003-003. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Rhonda Rose-Drecksler, located in the NW ¼ of Section 28, T1S, R5E, PMM, Gallatin County, Montana. (1410 Harper Puckett Road). Mr. Scott outlined the staff report and proposal for the Commission. The following comment was noted from Gallatin City-County Environmental Health: Tract A contains an existing development (single family dwelling & barn) with a permitted drainfield and a well. Tracts 3B & 3C are currently undeveloped, but both are proposed for one 5-bedroom single-family dwelling (SFD) and one 2-bedroom guesthouse (GH) per lot. Each tract to have one well and one septic system shared by the SFD & GH. Since one of the transferees is under age, Commissioner Mitchell questioned if a trust fund had been set up. Deputy County Attorney Kate Dinwiddie noted a letter from Rhonda Rose-Drecksler, which stated her intention of setting up a separate trust for the child. She added that it did comply with the Uniform Transfer to Minor Act, and appeared to be legally appropriate. The applicant's representative Mark Chandler, of C & H Engineering gave an overview of the proposal. Rhonda Rose-Drecksler was sworn in, via speakerphone from Florida, and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Ms. Drecksler noted a problem with reception. During testimony Ms. Rose-Drecksler stated that she did not own any other property in Gallatin County except the property in question. It was brought to Commissioner Murdock's attention by Mr. Scott that Ms. Rose-Drecksler owned a lot in Valley Creek Subdivision, Phase 1, Lot 7, Block 5. He questioned her regarding that property. She replied that it was sold in November. He also questioned her regarding the proposed intent to construct one 5-bedroom single-family dwelling (SFD) and one 2-bedroom guesthouse (GH) per lot. Ms. Rose-Drecksler replied that she was unaware of that statement and did not plan for a guesthouse. Commissioner Vincent clarified that was written on the staff report under the section: Intended recipients, disposition and use of parcels. Mr. Chandler responded that is what was submitted for the sanitation approval on the property in order to give the applicant more options however; they did not have to utilize that amount of usage. While this would give the applicant more options, the Commission was concerned with lifting restrictions such as these. Commissioner Mitchell compared it to a 5 lot minor, taking it out of review of access and public safety issues. Mr. Chandler noted that they could go to the state at a later date and do the same thing therefore they were giving them more options upfront. Commissioner Murdock questioned Ms. Rose-Drecksler about previous property ownership in Gallatin County. Ms. Rose-Drecksler noted that information was included in a letter submitted to the Planning Department. There was no public comment. With regard to the intent of the property Ms. Rose-Drecksler stated that she wanted whatever is allowed however it was not her goal to build at this time. If it would make a difference she stated that she did not care about the guesthouse and that provision could be eliminated. Commissioner Vincent suggested that there should be more

communication between Mr. Chandler and the applicant to see if the septic application is consistent with the applicant's wishes. Mr. Chandler noted that it could be eliminated, as the approval had not yet been written. The Commission expressed concern with the intent as well as the exemption itself. Commissioner Murdock stated that he was not comfortable with the exemption and did not see it as a proper use of the exemption based on the applicant's prior history with recent purchase and sale of properties in Gallatin County. He added that he would be happy to review this as a minor subdivision. Mr. Chandler noted that he went over the state and county regulations and family sale with Ms. Rose-Drecksler and believed that she understood the intent for the parcels quite thoroughly. With the knowledge of prior ownership of land in Gallatin County, including the 160 acres proposed as a subdivision, Commissioner Mitchell stated that it indicated Ms. Rose-Drecksler liked to develop properties. Because this one was already planned for extra septic permits she believed it would be better suited for a 5-lot minor, adding that this was a very specialized exemption that was a privilege, not a right. Ms. Rose-Drecksler explained her prior purchase and sale history of property in Gallatin County, adding that she had been in the real estate business for over 25 years. Commissioner Vincent clarified that the first of a series of questions asked of Ms. Rose-Drecksler under oath, asked the following: Are you or any of your immediate family real estate professionals, developers, or builders? Initially, Ms. Rose-Drecksler answered "no". She replied that she thought the word was developer after real estate. She pointed out that it was also noted in her letter that she was a real estate broker in the state of Florida. Mr. Chandler believed Ms. Rose-Drecksler was sincere in her request, adding that the sanitation issue was their doing and that possibly they did not communicate enough with the applicant. While Commissioner Murdock did not question Ms. Rose-Drecksler's sincerity however he noted that she has a pattern of buying and selling lots in Bozeman and he could not support this exemption. **Commissioner Murdock moved to deny the exemption for reasons stated in the record. Seconded by Commissioner Mitchell, adding this is not the primary residence, and there was a history of previous attempts for development which is not a bad thing however it is part of the criteria the Commission has to examine for family transfers.** Commissioner Vincent concurred, adding that the statement relative to the applicant's history is relevant. He explained to Mr. Chandler for the sake of further applications when the Commission reads what could develop on these lots, given the latitude of the septic permit, it is on the record and if it were to develop in that fashion they would be looking at a minor subdivision, without subdivision approval. Therefore, he too could not support the exemption. **None voting nay. Motion carried.**

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Gallatin County Planner Sean O'Callaghan reported on the continuation of a public hearing and consideration of a request for preliminary plat approval for Rocky Mountain Engineers P.L.L.C. on behalf of Gail Chemodureau Williams for the Sourdough Creek Minor Subdivision, described as Tract A-1-A of Minor Subdivision No. 236C, located in the NE ¼ and NW ¼ of Section 31, T2S, R6E, P.M.M., Gallatin County, Montana. The property is approximately 114 acres and is generally located on the west side of Sourdough Road, between Brajenka Road and Cobble Creek Road at Streamside Lane. The proposed 5 lot residential subdivision is within the Agricultural Suburban (AS) District of the Gallatin County/Bozeman Area Zoning District. Water supply and sewage disposal will be provided by individual water wells and septic systems. Photos of the area were provided for the Commission however at the request of Mr. O'Callaghan they were not labeled as exhibits. The proposed subdivision was previously subdivided in June 1998 as Sourdough Meadows Minor Subdivision, and has subsequently been aggregated into a single parcel, Tract A-1-A. The current proposal is re-creating the previous five lot minor subdivision, noting the one difference from the original proposal was that Tract 3 is larger due to boundary relocations. At their meeting on November 26, 2002, the Gallatin County Planning Board considered the proposed subdivision. The Planning Board expressed concern over the minimum twenty-five (25') foot trail easement standard outlined in the County Trails Plan, and thought that there should be some flexibility in this easement width. The Board also expressed concern over the conditions that were recommended by the Fire District and suggested that the Commission take a closer look at those conditions. After considering all information presented in the staff report, the applicants presentation, and all public testimony, the Planning Board recommended approval of the proposed subdivision. (7:0). Mr. O'Callaghan summarized the proposal in relation to the Master Plan and Zoning Regulations Review. The 1990 Bozeman Area Master Plan Update Neighborhood Plan Revision to the Gallatin County Plan land use classification for the property is Rural Residential and Public Lands and Open Space. The Limestone Creek and Sourdough Creek corridors are within the proposed subdivision and are labeled as Public Lands and Open Space by the Master Plan Update. There are three development options in the A-S District. The applicant has chosen the Standard Development Option, which is one dwelling unit per twenty (20) acres. The total area of the proposed subdivision is approximately 114 acres. Mr. O'Callaghan briefly summarized the staff report that contained criteria for the Commission to evaluate and staff findings for considering the subdivision along with the suggested conditions. The Commission needs to make the following determinations: 1. A determination as to whether or not the application complies with the 1990 Bozeman Area Master Plan

Update Neighborhood Plan Revision to the Gallatin Plan; 2. A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and 3. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the Commission approves the subdivision, the following conditions for final plat approval are suggested (underline and strikeout reflect Planning Board's recommendations for modifications to staff-suggested conditions): 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. ~~State Department of Environmental Quality approval shall be obtained for the subdivision.~~ The subdivider shall make a ~~concurrent~~ concurrent submittal to the ~~Department of Environmental Quality and the Gallatin City-County Environmental Health Department.~~ The subdivider, and shall obtain the Gallatin County Health Officer's approval. 3. As shown on the preliminary plat, a 50 foot wide watercourse setback, along both sides of Limestone Creek, and the east side of Bozeman/Sourdough Creek, shall be delineated on the final plat. 4. ~~As shown on the preliminary plat, the regulatory 100 year floodplain shall be delineated on the final plat. Any development within the regulatory 100 year floodplain shall take place in accordance with the Gallatin County Floodplain Regulations.~~ 4a. The area within the 100 year floodplain shall be designated as a "no build zone" on the final plat. 5. A copy of the approved 310 permit for the Streamside Lane crossing of Limestone Creek shall be obtained from the DNRC. A copy of the approved permit shall be submitted to the Gallatin County Planning Department prior to final plat approval. 6. The developer shall obtain an approved weed management plan from the Gallatin County Weed Control District prior to any construction projects within the site. The approved weed management plan shall be submitted to the Gallatin County Planning Department prior to final plat approval. Areas disturbed by construction shall be seeded and controlled for noxious weeds. 7. Forty-five feet (45') of the Sourdough Road right-of-way, west of the centerline and extending the entire length of the development, shall be dedicated to the public on the final plat. 8. A "no access" strip for Sourdough Road shall be located along the east boundary line of Lots 1, and 5, except at existing and approved county approaches. The no access strip shall be delineated on the final plat. 9. Interior road plans, road maintenance plans, drainage plans, lot access plans, and sign plans shall be submitted to the County Road & Bridge Department prior to the construction of the interior subdivision roads. 10. Streamside Lane shall be within a 60-foot right-of-way dedicated to the public. The first seventy five feet (75') west from the Sourdough Road intersection shall be paved to County standards, and the remaining portion shall be constructed to County gravel standards. 11. All road construction shall be inspected and certified by a Montana registered civil engineer. Prior to final plat approval, the subdivider shall obtain written verification from the County Road & Bridge Department that all roads have been brought to County standards. 12. All areas of public right of way disturbed during construction activities shall be sodded or reseeded. 13. Subdivision road names shall be reviewed and approved by the County GIS Department prior to final plat approval. 14. A road name sign at the intersection of Sourdough Road and Streamside Lane shall be installed or bonded prior to final plat approval. 15. A STOP sign at the intersection of Sourdough Road and Streamside Lane shall be installed or bonded prior to final plat approval. 16. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2. of the Gallatin County Subdivision Regulations. 17. The subdivider shall reimburse the developers of the Triple Tree Ranch Subdivision for their proportionate share of the cost of improvements previously made to Sourdough Road. 18. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 19. ~~The applicant shall comply with all fire protection conditions of approval and covenants as specified by the Sourdough Rural Fire District as provided in the Sourdough Rural Fire District letter regarding the Sourdough Creek Minor Subdivision (or as revised and approved by the Sourdough Rural Fire District). Applicant shall obtain a letter of compliance with such and covenants from the Sourdough Rural Fire District prior to final plat approval.~~ 20. The developer shall provide, at their expense, the fire protection authority having jurisdiction (FPAHJ) with a detailed site map, including fire protection features, i.e. access roads, hydrant systems, water supply points, etc. installed in the development and addresses for each lot (approved and provided by the Gallatin County GIS Department). The fire protection authority having jurisdiction shall approve all addressing. All addressing data, maps, and any related information shall be provided to the Gallatin County GIS Department in a medium approved by the Gallatin County GIS Department. 21. Prior to final plat approval, a summary fire protection note, approved by the Sourdough Fire Department, shall be recorded on the final plat. If Fire Protection Sprinkler System Option is selected that note shall read -

“Summary Fire protection Note - All inhabitable structures or buildings (including mobile and modular buildings or homes and others) with any residential or commercial capacity or use shall have a fire sprinkler system installed. Any building with in 50' of a building equipped with a fire sprinkler system shall have a fire sprinkler system installed. Other fire protection requirements apply, see covenants.”

22. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 23. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 24. The Subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 25. The applicant shall provide a mitigation plan for sheriff services that is acceptable to the County Commission. 26. A property owners' association for the subdivision shall be created. 27. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with the current International Building Codes. b. The property owners' association shall be responsible for the control of noxious weeds within the creek setbacks and all road right-of-ways. Lot owners shall be responsible for the control of noxious weeds within their property. c. The property owners' association shall be responsible for the operation and maintenance of all interior subdivision roads. d. Property owners of the subdivision are informed that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. e. All fire protection covenants as required by the Sourdough Rural Fire District. f. The artificial feeding of all wildlife and big game shall be prohibited, including providing any food, garbage or other attractant. g. All garbage shall be stored in animal-proof containers or be made unavailable to animals. h. Pets shall be controlled by each homeowner, and not allowed to roam at large. i. Owners acknowledge that wildlife damage to landscaping and other property may occur. Owners shall accept the risk and shall not file claims against the Owners Association or any other governing body for such damages. j. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 28. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Articles of Organization or Incorporation for the Property Owners' Association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Property Owner's Association c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Improvements agreements. e. Certificate of a Licensed Title Abstractor. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 29. The developer shall dedicate a trail easement along the West edge of Lot 3, East of Sourdough Creek, extending from the North property line to the South property line. The exact location and width of the trail easement is to be approved by the County Planning Department. 30. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Mr. O'Callaghan outlined the following Exhibits attached to the staff report: Exhibit "A", Trails Advisory Committee; Exhibit "B", Gallatin Valley Land Trust; Exhibit "C", Sheriff Cashell's comments; Exhibit "D", Environmental Health Department comments; Exhibit "E", Montana Fish Wildlife and Parks, pointing out comments with regard to compatible uses within the floodplain; Exhibit "F", Applicant's justification; and Exhibit "G", Public comment. A letter was received from the applicant's representative Attorney Susan Swimley suggesting modifications to conditions #25 and 29. It also noted that on March 26, 1996, Ms. Williams paid Gallatin County \$1,471.20 for the proportionate share of the costs of improvements previously made to Sourdough Road. It is the applicant's intent to ask the County to agree that the 1996 payment meet the requirement of condition #17. It was also noted that Ms. Williams would ask the Planning Department to consider a waiver of Fire Impact fees based upon the 1996 contribution of \$2,045.78. The Sourdough Fire Department was consulted and concurs with the waiver. Ms. Swimley summarized her letter dated January 6, 2002, with the suggested modifications to the conditions. She noted that the applicant's were in agreement with the conditions, except the following conditions: condition #25 "The applicant shall provide a mitigation plan for sheriff services that is acceptable to the County Commission." She requested the condition be stricken because the Commission has in recent history not adopted this language; condition #29 "The developer shall dedicate a trail easement along the West edge of Lot 3, east of Sourdough Creek, extending from the North property line to the South property line. The exact location and width of the trail easement shall be approved by the County Planning Department." She believed that this condition directly conflicts with the letter dated December 9, 2002, from Kurt Alt and Patrick Byorth of the Montana Department of Fish, Wildlife and Parks. In the letter, Mr. Alt and Mr. Byorth state that Sourdough Creek is in relatively pristine condition supporting a diverse and healthy fish community. They state that trails have minimal effects on streams and wildlife so long as they are kept a safe distance from the active stream channel. They requested building be avoided in the 100 year flood plain and a requirement that property owners are prohibited

from removing vegetation, exclusive of weeds. Based on the wildlife habitat issues and preservation of the creek, the applicant requested that they not require a trail easement along the creek. It was believed that people and animal interaction would occur which would limit the wildlife that have access to that creek as well as degrade the creek banks, should people wonder off the trail. Additionally it would cause problems with the west end of the property because they are agreeing to not build in the 100-year flood plain, and this would limit the build able area on Lot 3. As an alternative they asked the Commission to agree that this pristine area needs to be preserved and if a trail connection is important to be able to go from Main Street out to the Triple Tree trails that are dedicated to the public they would ask to modify condition #29 to read as follows: "The subdivider shall dedicate a public 14 foot wide trail easement on the easterly edge of the property adjacent to Sourdough Road." It was noted that the property to the north was subdivided with no trail easement. Ms. Swimley noted that when they come back for final plat that they will be asking the Commission to determine that the developers 1996 payment under the first subdivision to Triple Tree for improvements to Sourdough Road, be credited. There was no impact from the 1996 subdivision because it was never built. They will be asking the Planning Director to consider a waiver of fire impact fees based on those fees paid in 1996. She also noted in preliminary discussions with DNRC with regards to condition #5, that they would not need a 310 permit. In that case they will come back and show evidence. Mr. O'Callaghan suggested they modify condition # 5, adding the words "if required", at the end of the first sentence. Further discussion followed regarding the re-channeling of Limestone Creek, as mentioned by Montana Fish, Wildlife & Parks, and the location of the trail. Ms. Swimley stated that they were in agreement to adding a covenant prohibiting livestock. Ms. Swimley clarified that the letter from Fish, Wildlife & Parks should have stated that "a previous landowner", not "the landowner" in reference to the re-channeling of Limestone Creek. By that statement, they meant some way of enhancing the bank so it would create a channel as opposed to a flood area. She stated they would be willing to do that as an enhancement to the property anyway. Commissioner Vincent questioned if there would be any consideration to clustering in this location. Ms. Swimley cautioned that the Commission needed to be careful about using any part of the Growth Policy or the 1990 Bozeman Area Update policy, as that was where that discussion comes from, not the Subdivision Regulations. Discussion followed regarding building envelopes, specifically on Lot 3 and water rights. It was suggested by Mr. O'Callaghan not to include building envelopes but instead to put the no build language in the floodplain. The applicant, Clayton Williams spoke regarding water rights. Ray Center, on behalf of Rocky Mountain Engineers made comments with regard to Sourdough Creek, the floodplain and the trail. Commissioner Vincent questioned if there had been any testing of groundwater or data to be considered regarding septic or water quality and availability. Mr. Center stated that they had not done any, and would do so in the future. Public comment: Dave Pruitt replied to comments made regarding ditches and water rights. Mr. Pruitt stated if they were going to subdivide this land that they needed to protect agricultural waters, noting when water rights are divided, they are destroyed and useless. He added that water rights can be sold separately and they do not have to go with the land. He stated that it would be better if they drilled their wells and the leave water rights to a better use. Ms. Swimley replied that they could transfer the water rights to the homeowners association or specifically, reserve it to go back to the Williams/Chemodureau Ranch so they do not get split up. Commissioner Vincent stated that there were a lot of unanswered questions and although the law enforcement mitigation was not a requirement, he would favor some accommodation. He believed because the development was so close to Bozeman that it would have protection if needed. He was concerned about the trail and wanted to learn more. He was also concerned that they did not have any data relative to groundwater. Further discussion took place with regards to continuing action, until the applicant provided information relative to the Commission's concerns. Commissioner Murdock did not have a problem with the subdivision however he preferred that it be clustered. He was not in favor of the sheriff mitigation for reasons mentioned; his only major concern was with the trial. Mr. Center pointed out on a quad map, all the land in Sourdough Creek Properties, which had adequate water. Based on the terrain, he did not expect to see problem with water. Mr. Williams spoke with regard to ground water levels, noting no problems. He added that the land is has a very high slope and way above the creek level. Further discussion took place with regards to why the applicant chose not to cluster. Mr. Williams stated they were not developers and preferred not to have a cluster development, noting they had the financial responsibility for weed abatement and security problems. Commissioner Mitchell pointed out her observation of various issues in the area, noting she was uncomfortable with the proposal. While noting the applicant had the right to do want they wanted with their land, she added that the Commission had the responsibility to make sure they have the best growth and the most accessible way to deal with public issues. She believed that a trail should be accommodated, and would like to see a continuation of the trail corridor in some manner and the 100-year flood plain preserved. Although Commissioner Murdock agreed with Commissioner Mitchell he stated that he would not vote no. He would vote for it as presented, with the conditions as amended: Condition #5, add the language "if required" at the end of the first sentence; strike condition #25; and leave condition #29, as written. His reasoning for leaving condition #29, as written was because of his awareness of the expressed desire by all those involved in parks and trails efforts to extend the Main Street to the mountains idea, up

Sourdough. He was not in favor of moving the trail up by Nash Road. He did not believe it was inconsistent to put the trail in the flood plain and that it would not harm property values. He stated that it was proven in public record that values go up. He pointed out that it was a fundamental requirement in state law and the Subdivision Regulations to consider public health, safety and convenience, including recreation and trails. Commissioner Vincent agreed with Commissioner Murdock relative to condition #29 however he had some other serious questions about proceeding a past preliminary plat approval without having what he felt was adequate data with regard to water quantity and quality. He had no objection to a subdivision in this location however he personally felt it should be clustered and wanted to look at the Donut Regulations to make an estimation in his own mind whether or not they had the authority to see if they could head in that direction. He did not feel comfortable proceeding on the basis of the following issues: water; fire impact fees; building envelopes; and covenants. Commissioner Mitchell concurred, noting that she wanted answers regarding water rights and livestock. On behalf of the applicant, Ms. Swimley agreed to a continuance until January 21, 2003. Public comment was closed. **No action taken.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the request for final plat approval for the Ramshorn View Estates, Phase 3D, Major Subdivision. Preliminary plat approval was granted May 5, 1998. On December 3, 2002, the Commission granted an extension of the preliminary plat for Phases 3 and 4. Phase 3D includes five single-family lots. The subdivision is located along U.S. Highway 191, south of Buck's T-4 in Big Sky. Based on review, Mr. Johnson stated that it appears all conditions for final plat approval have been satisfied. There was no improvements agreement. There was no public comment. **Finding that the Planning Department stated that the requirements and conditions for the Ramshorn View Estates, Phase 3D, Major Subdivision have been met, Commissioner Mitchell moved to approve final plat. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:17 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 14th DAY OF JANUARY 2003

The meeting was called to order by Chairman John Vincent at 9:09 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

JANUARY 6, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, Grants Administrator Larry Watson, Chief Deputy County Attorney Chris Gray, Sheriff Detective Jason Jarrett, Commission Secretary Rose Murrish, and Commission Assistant Glenda Howze. The Commissioners considered approval of restrictive covenants for the regional park property and approval of a contract with Baxter Meadows, L.L.C., to include reference thereto on a future plat. Mr. Gray explained that the covenants are to protect any funding sources and protect the land as public property. Commissioner Mitchell made a motion to approve the declaration of protective covenants on the Open Space Land and voluntary conservation easement act for the Regional Park, Gallatin County, and contract for property located at T1S, R5E, Section 34 and T2S, R5E, Section 3, more commonly known as Tract 3A of COS 2202A. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero, Commissioner Murdock was not in attendance for this item.

The Commissioners considered an order authorizing a transfer of funds in the matter of the application of Alderman River Ranch, L.L.C., for a request for \$32,050 grant from the Open Space Bond fund. In addition, the Commission considered approval of the Gallatin County Open Space

Fund conservation easement sale and purchase agreement and assignment between Alderman River Ranch, L.L.C. and Gallatin County. Commissioner Mitchell made a motion to authorize the approval of a wire transfer of funds for the \$32,050 and authorize approval of the purchase agreement and assignment with Alderman River Ranch, L.L.C. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget transfer for 911 Communications. Commissioner Murdock made a motion to approve said transfer, finding that Finance Officer Ed Blackman has approved the transfer. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a Memorandum of Understanding between Gallatin County Search and Rescue (SAR) and the Gallatin County Fair Board. Detective Jason Jarrett, representative for SAR, and Jason Schrauger, representative for the Department of Emergency Management and the Emergency Operation Center (EOC) were in attendance for this item. All of the parties involved are in agreement with the MOU and have signed off on it indicating such. Commissioner Murdock made a motion to approve said MOU between SAR and the Fair Board for the completion of a SAR building. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a Missouri River Drug Task Force Interlocal Agreement for FY 03-04. This is an ongoing interlocal agreement and Gallatin County acts as the lead agent for the grant. Commissioner Mitchell made a motion to approve said agreement. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a time only contract extension for the renewable resource loan from the DNRC for the West Yellowstone Compost facility. This simply extends the contract from the original date on the grant. Commissioner Mitchell made a motion to approve said time extension contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a request from the Local Water Quality District to increase their Water Quality Specialist to regular full time. The LWQD board is in agreement with this request and the department has the funds available to absorb the increase in salary costs. Commissioner Murdock made a motion to approve said request from LWQD, finding the board approves and there are funds available. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of appointment of Julie Wagner to the Springhill Fire Service Area Board of Trustees. The current board has recommended her appointment; notice of the position has been made. Commissioner Mitchell made a motion to approve said appointment. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a request for disposal of records from the Clerk and Recorder. Discussion took place regarding this request, noting that this is necessary in order to make room downstairs. Commissioner Mitchell made a motion to approve said request, finding that it is being done in accordance with state law regarding the destruction of official documents. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

Auditor Jennifer Blossom brought a claim denied by former Auditor Joyce Schmidt to the Commissioners' attention. The claim is for \$15,000 and is reimbursement to St. Paul Insurance for the deductible in the Pat Lewis settlement. Commissioner Mitchell made a motion to pay said claim as soon as possible, subject to the opinion of County Attorney Lambert. Commissioner Murdock seconded the motion. In discussion, Commissioner Mitchell asked that the County Attorney follow through with a policy and/or process for getting outside legal opinions paid for with County funds. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget agreement between Montana State University Extension Services and Gallatin County. Commissioner Murdock made a motion to approve said budget agreement. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the state fuel tax allocation to the County. Road and Bridge Superintendent Lee Provance says that this needs to be signed regardless of the numbers as it is the only way to get reimbursed. Commissioner Murdock made a motion to approve and sign the state fuel tax allocation document, based on the recommendation of Road and Bridge Superintendent Lee Provance. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed the timeline of precinct boundary changes. Clerk and Recorder Shelley Vance has recommended that the consideration of changes to the Commission district boundaries be postponed pending a decision regarding the legislative redistricting of boundaries.

- The Commissioners attended regularly scheduled County Attorney monthly meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, County Attorney Marty Lambert, Planner

Randy Johnson, and James Nicholson from Morrison Maierle. Commissioner Murdock made a motion to allow a one-year extension to the Antler Ridge Subdivision agreement, along with a new Surety guaranteeing completion to the required infrastructure improvements, pending review and approval by the County Attorney. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

JANUARY 7, 2003

- The Commissioners conducted regular County business.

JANUARY 8, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, and Commission Secretary Rose Murrish. The Commissioners considered approval of a claim listed on voucher list dated January 6, 2003 including check number 8016868 in the amount of \$300.00. Commissioner Mitchell made a motion to approve said claim. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. The Commissioners considered approval of a claim listed on voucher list dated January 2, 2003 including check number 8016865 in the amount of \$450.00. Commissioner Murdock made a motion to approve said claim. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a architectural contract for the EOC with Springer Group. Commissioner Mitchell made a motion to approve said contract in the amount of \$9,990.00, noting that the Commission is happy to see this project come to fruition. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of sublease agreements between Gallatin County, MADD, and US Bank National for office space for the DUI Task Force. Commissioner Murdock made a motion to approve both sublease agreements. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed reorganization of the board duties assigned to each Commissioner. It was determined that they would be left as they currently are for the next year, with the possibility of changes in 2004. Commissioner Mitchell made a motion to leave the boards and duties the same as they are for 2003. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

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- Landfill Revenue for December 2002: \$316,388.46.
- Payroll for December 2002: \$1,232,349.71.
- Clerk & Recorder's Fees Collected for December 2002: \$109,101.14
- A-101's for December 2002: \$6.09
- New Hire Report for December 2002: Christian Gurley, Adayle Hudyma, Joanna Seltzer, Sneha Talati, Donna Warner
- Terminated Employees' Report for December 2002: Peggy Palylyk, Regina Robin

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated January 9, 2003, in the amount of \$467,837.44.
2. Approval of Contract(s): Detention Services Agreement Between Community, Counseling, & Correctional Services, Inc. (CCCS, Inc.) and Gallatin County for Juvenile Detention.
3. Request for Mortgage Survey Exemption for Michael A. & Mary L. Promisco, located in the N ½ SW ¼ of Section 1, R1S, R5E. (5377 Walker Road, Bozeman, MT). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Common Boundary Relocation Exemption for Norman L. & Ethie H. Brothwell/Brian L. & Deborah L. Elliott-Pearson, located in the NW ¼ and the SW ¼ of Section 24, T2S, R7E, P.M.M., Gallatin County, Montana. (Johnny Martinez Way, Tract 26 & 27 Smokey Hollow) Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Common Boundary Relocation Exemption for F Double D/Horseshoe Hills, LLC and Robert F. Morton, located in the SE ¼ and the NE ¼ of Section 24, T2N, R2E, P.M.M., Gallatin County, Montana. Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda. Commissioner Vincent noted consent agenda Item #4, would be continued indefinitely because of un-paid taxes. Commissioner Murdock requested that consent agenda Item #5, be placed on the regular agenda for further discussion. **Commissioner Murdock moved to approve the consent agenda, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Murdock wanted to confirm whether or not the request for common boundary relocation exemption for F Double D/Horseshoe Hills LLC, was affiliated in any way with properties of concern in the area owned by Vidar/Langel (Gallatin River Ranch). The applicant's representative Russ McElyea pointed out the vicinity of the property, noting that it was several miles west of the Gallatin River Ranch development. He pointed out that it was not an allocate part, it was a previous surveyed parcel. There was no public comment. **Commissioner Murdock moved to approve the relocation of common boundaries for Horseshoe Hills/Morton, finding it is the proper use of an exemption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

One vacancy exists on the Big Sky Transportation District due to the term expiration of John Flach. This position is for a one-year term and will expire on December 31, 2004. Mr. Flach was notified and indicated a desire to be reappointed to the board. To date, no additional applications have been received. There was no public comment. **Commissioner Mitchell moved to re-appoint John Flach. Seconded by Commissioner Murdock. None voting nay. Motion carried.** One vacancy exists on the Gallatin City-County Board of Health due to the term expiration of Martha Lonner. This is a three-year term and will expire on January 6, 2006. Ms. Lonner was contacted and indicated that she did not wish to be re-appointed. To date, two applications have been received from Barbara Vaughn and Becky Robideaux. Board of Health Director Stephanie Nelson expressed her desire to have Ms. Vaughn appointed, as well as other board members indicating the same. There was no public comment. **Commissioner Mitchell moved to appoint Barbara Vaughn. Seconded by Commissioner Murdock. None voting nay. Motion carried.** It was noted that the incorrect information was provided in a memorandum to the Commission for the board appointment to the Manhattan City-County Planning Board. Cathy Ligtenberg, president of the Manhattan City-County Planning Board clarified the terms for the Commission. Two vacancies exist on the Manhattan City-County Planning Board due to the term expirations of Carl Schutter and Eileen Baker. These are two-year terms to expire on December 31, 2004. Mr. Schutter and Ms. Baker were notified, Mr. Schutter indicated a desire to be reappointed and Ms. Baker indicated that she was no longer interested in serving. To date, two applications have been received from Kristen Swenson and Dan Nagel. In addition, letters of recommendation for Kristen Swenson were received from Mayor Eleanor Mest, President of Planning Board Cathy Ligtenberg, and the Planning Board. **Commissioner Mitchell moved to re-appoint Carl Schutter. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock moved to appoint Kristen Swenson. Seconded by Commissioner Mitchell, adding that she will fill the position vacated by Eileen Baker. None voting nay. Motion carried.**

Commissioner Vincent announced that the continuation of a public hearing to consider abandonment of a portion of a 60' Frontage Road in Peakview Subdivision #2 would be continued indefinitely. Noting this was turning into a complex situation, stating there was a letter from the viewing committee recommending denial; signatures from the subdivision lot owners indicating they have no problem with the abandonment; a verbal statement from the Gateway Fire Chief giving approval; and a letter from the Board of Directors raising serious questions about whether the abandonment should be granted. The applicant was referred to the County Attorney. **No action taken.**

Gallatin County Sheriff Jim Cashell reported on the consideration of a resolution of intent to amend the Public Safety FY 2003 operating budget eliminating funding of (2) patrol officer positions and addition of (4) detention officers without an increase in budget, with in the Sheriff Department. There was no public comment. **Commissioner Murdock moved to adopt Resolution of Intention #2003-004. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the pubic hearing and consideration of a resolution to increase the Gallatin County Joint Dispatch FY 2003 budget to receive unanticipated revenues for the Department of Justice COPS Technology Grant program. There was no public comment.

Commissioner Mitchell moved to approve Resolution #2003-005. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Gallatin County Grants Administrator Larry Watson reported on the consideration of a revised resolution of intention establishing the Gallatin Solid Waste Management District. Mr. Watson noted the original resolution of intention that was adopted by the Commission in October 2001, formed the Gallatin County Solid Waste Management District that would have included all of Gallatin County with the exclusion of the West Yellowstone/Hebgen Basin School District #69, because they have their own refuse district. The adoption of that resolution, initiated a mailing to the other municipalities (Three Forks, Manhattan, Belgrade, and Bozeman) in Gallatin County requesting resolutions of concurrence to join in the formation of the district. Resolutions of concurrence were received from the Towns of Manhattan and Three Forks however resolutions of concurrence were not received from Belgrade and Bozeman. At that time further action was postponed to enter into negotiations with the communities of Belgrade and Bozeman in an attempt to work with them and encourage them to join the district. There were several meetings held to try and reach some conclusion about the formation of the district. Summation of the activities indicated that the communities of Belgrade and Bozeman would desire to participate in the district by way of a contract, rather than joining. Should this resolution be adopted, they will then follow up and confirm the two resolutions of concurrence already received and acquire a formal response from Belgrade and Bozeman stating that they are choosing to not participate in the formation of the district at this time. They will then process a mailing to the real property holders within the boundaries of the prescribed district. If a district is formed without Belgrade and Bozeman they will look to those two municipalities to define themselves so the mailing to be conducted by the Election Administrator would go to those property holders in all the other areas of the county with the exclusion of the West Yellowstone/Hebgen School District #69, and the communities of Belgrade and Bozeman as defined. It was noted that the cities of Belgrade and Bozeman could join at a later date, which would be a negotiation between the new Solid Waste Management Board and the communities. Public comment: Dean Ulrich and Dave Pruitt. Dean Ulrich, area manager for BFI Waste Services expressed concern that this was a substantial change to the original intent passed by the Commission and questioned if this was going to be passed without a public hearing. Commissioner Vincent replied that this was reviewed by the County Attorney's office. He noted that they previously held a public hearing where it was clear that the cities of Bozeman and Belgrade had reservations, and at that time the Commission indicated after a good faith effort if Belgrade and Bozeman chose not to join, they would move forward. Further discussion took place regarding the process procedures of the formation. Mr. Watson reiterated the process. Mr. Ulrich was satisfied with the explanation. Dave Pruitt stated that the agenda was clear that the Commission was revising the original resolution, which was to include the whole county, and removing those who did not want to participate. Commissioner Murdock believed with all the meetings and discussions with the advisory groups, that they have given plenty of opportunity for cities of Belgrade and Bozeman to express any conditions if any to come into this district. He noted that this has gotten plenty of public airing and they have done everything they could to get them on board. **Commissioner Murdock moved to pass Resolution #2001-120A, as amended. Seconded by Commissioner Mitchell. Commissioners Mitchell and Vincent concurred.** Although Commissioner Vincent understood the position of the cities of Belgrade and Bozeman, he disagreed with them, noting it was short sided and lacked vision for them not to join at this time. He stated that it was time to move forward. He added that the City of Bozeman and Belgrade could have held public hearings to ask their constituents directly, whether they felt joining a solid waste district was in their best interest. He stated that they had the opportunity to submit under the state constitution an Advisory Referendum, asking the question of those residents if they felt Bozeman should join in the Solid Waste District. He stated at an earlier meeting that he would look into legislation whether or not state law would accommodate the expeditious addition of an annexation. He found that State law was adequate, so he withdrew the bill drafting and research request on that legislation. **None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on consideration of a resolution approving a sign variance for Gallatin Peaks Land & Development, LLC. A joint public hearing was held between the Gallatin Canyon/Big Sky Planning and Zoning Commission and the Gallatin County Commission on December 19, 2002. The sign variance request was denied, since the motion to approve the variance did not carry because of a tie vote (3:3). There was no resolution for consideration, as Mr. Scott stated that he was directed not to draft a resolution however he did provide the Findings of Fact. The Commission made the decision to make the following motion. **Commissioner Murdock moved to affirm/uphold the decision made by the Zoning Commission. Seconded by Commissioner Mitchell, adding that she voted in favor of this sign request and her rationale for doing so was on the record therefore, she could not support the motion. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manger W. Randall Johnson reported on the consideration of a resolution of the Gallatin County Commission denying the McConnell request to amend the Official Zoning Map for the Hebgen Lake Zoning District. A joint public hearing was held between the Hebgen Lake Zoning Commission and the Gallatin County Commission on December 19, 2002. After consideration of staff reports, exhibits, public testimony, and the applicant’s presentation, the Zoning Commission voted unanimously to recommend denial of the zone map amendment. In order to avoid inconsistencies, further discussion took place in regards to why there was a resolution on this decision, and nothing on the prior one. The Commission determined it would be best not to reconsider the prior motion, and if a resolution was needed to formalize their decision it could be done at a later date. **Commissioner Murdock moved to approve Resolution #2003-006. Seconded by Commissioner Mitchell, noting this is a resolution of denial. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Richard H. & Mary J. Harris, (Beneficiary) and Stephen R. Hample (Trustee), located in the NE ¼ and in the SE ¼ of Section 26, T3S, R4E. (Little Bear Road, Gallatin Gateway, MT). Mr. Scott summarized the staff report. Steven Hample, as trustee on behalf of Mr. & Mrs. Harris explained on his capacity. Mr. Hample noted that legally the trust is the applicant and the Harris’ were the beneficiaries. Richard H. and Mary J. Harris were sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Mr. Hample provided answers to some of the questions. There was no public comment. **Commissioner Mitchell moved to approve the request for the Harris family transfer exemption, noting this is exactly why the law was written. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Vincent announced a pending resolution creating the Gallatin Drive Mosquito Control District. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-007. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

There being no further business the meeting was adjourned at 10:21 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 21st DAY OF JANUARY 2003

The meeting was called to order by Chairman John Vincent at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Clerk to the Board Shelley Vance.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

JANUARY 13, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, and Mitchell, Grants Administrator Larry Watson, Gallatin Development Corporation Director Alicia Bradshaw, RC&D Coordinator Josh Kellar, and Auditor Jennifer Blossom (taking minutes). The Commissioners considered approval of a contract with the Gallatin Development Corporation and RC&D for a CEDS/Needs Assessment. This is for data collection that will involve and assist all entities. Commissioner Mitchell made a motion to approve said contract, finding that both Chief Deputy County Attorney Chris Gray and Finance Office Ed Blackman have approved the contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of contract #MT-CDBG-ED-SBIR-TA-02-01A with the

Montana Department of Commerce. This is a time extension only contract. Commissioner Murdock made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered payment of invoice #2 to the Bozeman Shelter Care. A contract has never been signed. It was noted that CJCC should be the ones recommending to the Board of County Commissioners whether or not to fund the Bozeman Shelter Care. Commissioner Murdock made a motion to pay the invoice, finding that until the contract is worked out or CJCC has a chance to review this matter, the shelter needs its funding. Commissioner Vincent seconded the motion. Commissioners Vincent and Murdock voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

JANUARY 14-15, 2003

- The Commissioners conducted regular County business.

JANUARY 16, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Commission Secretary Rose Murrish, and Commission Assistant Glenda Howze. The Commissioners considered approval of budget transfers for Health (WIC), Extension, Project Impact, and Environmental Health Services. Commissioner Murdock made a motion to approve all noted requests for budget transfers. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of requests for inventory disposal for the Rest Home, Clerk and Recorder and Gallatin (Pogreba) Airport. Commissioner Murdock made a motion to approve said inventory disposal requests. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a contract with Don Hargrove for lobbying services for the 58th Legislative session. Commissioner Murdock made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a change order for Phase III, IV for the re-model of the wall in the Commission office. Commissioner Murdock made a motion to approve said change order. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

JANUARY 17, 2003

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated January 15, 2003, in the amount of \$118,371.52.
2. Approval of Contract(s): Mountain-Pacific Quality Health Foundation/Gallatin Rest Home; and Motor Vehicle Copier Maintenance Agreement w/Davis Business Machines.
3. Request for Common Boundary Relocation Exemption for Lyle W. Ryen, Bertha M. Ryen, and Chad Combs, located in the SE ¼ of Section 24, T1N, R5E P.M.M., Gallatin County, Montana. (Johnny Martinez Way, Tracts 26 & 27 Smoky Hollow) Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Common Boundary Relocation Exemption for Johannes Pieter Hendrik DeMeij/Neil & Debra Jamieson, located in the NW ¼ of Section 36, T2S, R6E, P.M.M., Gallatin County, Montana. (Bear Canyon Road). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda. There was no public comment. **Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

One vacancy exists on the Logan Landfill Advisory Board due to the term expiration of Robert Marshall. This position is for a three-year term and will expire on December 31, 2005. Mr. Marshall was notified and indicated a desire to be reappointed to the board. To date, no additional applications have been received. There was no public comment. **Commissioner Murdock moved to re-appoint Mr. Marshall. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Chief Deputy County Attorney Chris Gray reported on the public hearing and consideration of the second reading, substantive changes from the first reading of Dog Control Ordinance #2003-01. There was no objection from the public to reading the ordinance therefore the reading was waived. Mr. Gray summarized ordinance and noted the substantive changes. There was no public comment. Correspondence was received from Kyle Klicker and Kristy & Beth Pierce in support. **Commissioner Murdock moved to approve Ordinance #2003-01, as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** The ordinance will take effect in 30 days.

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Public Safety FY 2003 Operating Budget eliminating funding of (2) patrol officer positions and addition of (4) detention officers without an increase in budget, within the Sheriff Department. There was no public comment. **Commissioner Mitchell moved to adopt Resolution #2003-008. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Clarkston Fire Service Area #6 FY 2003 budget to reflect actual revenues. There was no public comment. **Commissioner Murdock moved to adopt Resolution #2003-009. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the continuation of a public hearing to consider abandonment of a portion of alley located between Lots 1 – 3 and Lots 67 – 69 in Rainbow Subdivision of Bozeman Hot Springs. During a prior hearing it was discovered that notice was not mailed to individuals who protested the abandonment. On the advice of Deputy County Attorney Kate Dinwiddie it was recommended that this be re-advertised and notify those individuals who protested the abandonment. Notice of this public hearing was mailed to all those listed in the petition on January 15, 2003, including those individuals submitting letters of protest. Notice was published on January 16, 2003, in the High Country Independent Press. Lonny Walker explained there were two previous petitions to abandon portions of this alley and his request was to abandon the last 120 feet. The reason stated for the prior abandonments was that the alley was not used as public access nor did the adjoining property owners use it. Mr. Walker provided a copy of a Bargain and Sale Deed from the Department of Transportation, which guaranteed his shared access with Eric Berger to Highway 191. Public comment: Eric Berger spoke regarding his concern with emergency access. He also pointed out the need for future water and sewer access. Terri Kolnik spoke against the closure. She pointed out the previous abandonments, noting that one owner owned all of the lots and it did not affect anyone's access. Since that time, travel on Gallatin Road has become increasing hazardous and access has become less desirable. She stated that closure of this alley was premature because of the reassurance they have with joining the water and sewer district and because so much is undecided with the future of Four Corners. She agreed with the viewing committees report. Lee Provance, County Road Superintendent reported that the MDOT will be limiting access onto 191 and advised not to abandon roadway. Mr. Walker stated the only way to guarantee access is with a deed, which he has and submitted. He stated that no one would be denied access. Public comment was closed. **Commissioner Mitchell moved to deny application for abandonment. Seconded by Commissioner Vincent.** Commissioner Mitchell agreed that this abandonment was premature. Commissioner Murdock was in favor of the abandonment for the reasons stated by Mr. Walker and suggested what is good for one is good for the other because of the prior abandonment issues. Commissioner Vincent agreed this was premature and was in favor of the motion. **Commissioners Mitchell and Vincent voting aye. Commissioner Murdock voting nay. Motion carried.**

Mike Harris, Open Lands Coordinator reported on the public hearing and consideration of authorization of expenditure of funds in the amount of \$950,000 from the Open Space Fund for the purchase of a conservation easement on 956 acres of property located approximately 5 miles north of Belgrade owned by the Cowan & Skinner Ranch Company. The final appraised value of the conservation easement was \$3,600,000. The funds from the Open Space Bond will be leveraged with \$1,000,000 from the Federal Farmland Protection Program, \$60,000 from the Doris Duke Foundation, and the Cowan & Skinner Ranch

Company will donate the remaining \$1,600,000. Total leverage from outside sources amounts to roughly 74% of the market value of the easement. The Cowan/Skinner easement received a final recommendation for the allocation of funds from the Open Space Bond at the January 13th board meeting. Deputy County Attorney Chris Gray outlined the terms and conditions of the easement with recommendations. Mr. Gray stated that the review reveals that this transaction is appropriate. There was no public comment. **Motion by Commissioner Murdock to approve the expenditure of \$950,000 of the Open Lands bond money for the Skinner conservation easement acquisition. Seconded by Commissioner Mitchell.** Mr. Gray advised that the Commission's order include the authorization that a wire transfer be made from the Treasurer's office pursuant to the agreement. **Commissioner Murdock amended the motion to include the terms described Mr. Gray and any other details needed by the County Attorney and other county offices. Commissioner Mitchell amended the second. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Kay Van Norman and George Gephardt, located in the NW ¼ of Section 2, T3S, R5E, PMM, Gallatin County, Montana. (7880 Fowler Lane, Bozeman, MT). Mr. Scott briefly summarized the exemption request. Kay Van Norman was sworn in and testified under oath answering questions to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Motion by Commissioner Murdock to approve the family transfer exemption for Norman and Gephardt as requested, finding that it meets the exemption criteria and is the proper use. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for DeWin L. Madill, located in the SW ¼ of Section 23, T2S, R6E, PMM, Gallatin County, Montana. (Mount Ellis Lane). Mr. Scott briefly summarized the exemption request. DeWin L. Madill was sworn in and testified under oath answering questions to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Motion by Commissioner Murdock to approve the exemption for Madill as presented, finding that it is a proper use based on the testimony. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Douglas L. Smith, located in the SE ¼ SW ¼ of Section 3, T2S, R5E, PMM, Gallatin County, Montana. Mr. Scott briefly summarized the exemption request. Douglas L. Smith was sworn in and testified under oath answering questions to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Motion by Commissioner Murdock to approve the exemption for Mr. Smith, finding that it is the proper used based on the testimony. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a Conditional Use Permit for Northwestern Energy to allow the expansion of the Sourdough existing electric substation in the Residential Suburban (RS) District of the Gallatin Count/Bozeman Area Zoning District (the "Donut"). Mr. O'Callaghan provided the Commission with pictures (3 sheets) of the existing station, labeled Exhibit "H", additional conditions labeled Exhibit "I", and a landscaping plan labeled Exhibit "J". The existing facility is located on approximately 1.5 acres, located in the SE ¼ of section 18, T2S, R6E, PMM, Gallatin County, Montana. The property is generally located at the southwest corner of the intersection of South Church Street and Lincoln Street (if extended), South of Bozeman. Mr. O'Callaghan briefly summarized the staff report. At their meeting on January 14, 2003, the Gallatin County Planning Board recommended approval (5:0) of the application with the conditions as suggested by staff. After hearing and considering all public testimony, the Gallatin County Commission needs to make the following determinations: 1. A determination as to whether or not to approve, conditionally approve or deny the requested conditional use permit. 2. A determination as to whether or not the request as proposed by the applicant meets the criteria of Section 53.030A of the Regulation: *A. The site for the proposed use is adequate in size and, topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly relate such use with the land uses in the vicinity; B. That the site for the proposed use relates to streets*

and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; C. That the proposed use will have no adverse effect on the abutting property; D. That the conditional use has complied with all conditions stipulated in Sections 46, 47, and 50; E. That any additional conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare. Such conditions may include but are not limited to: a. Regulation of use, b. Special yards, spaces and buffers, c. Special fences, solid fences and walls, d. Surfacing of parking areas, e. Requiring street, service road or alley dedications and improvements or appropriate bonds, f. Regulation of points of vehicular ingress and egress, g. Regulation of signs, h. Requiring maintenance of the grounds, i. Regulation of noise, vibrations, odors, j. Regulation of hours for certain activities, k. Time period within which the proposed use shall be developed, l. Duration of use, m. Requiring the dedication of access rights, n. Other such conditions as will make possible the development of the zoning jurisdiction in an orderly and efficient manner. If the County Commission recommends approval, the following conditions for the granting of the conditional use permit are suggested: 1. According to Section 53.030.B of the Regulation, the Commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted: a. That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure; b. That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use; c. That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns; d. That all of the special conditions shall be consented to in writing by the applicant. 2. This conditional use permit shall not be valid until the applicant has obtained a land use permit from the County and a building permit from the City of Bozeman. 3. Any development within the 100 year floodplain shall take place in accordance with the Gallatin County Floodplain Regulations. 4. Fire services and/or providing a water supply for fire fighting purposes shall be reviewed and approved by the Sourdough Rural Fire District. The applicant shall obtain written verification from the fire district that this condition has been satisfied **prior to the issuance of a land use permit.** 5. The substation shall be buffered from adjoining lands by a combination of screening and landscaping that is approved by Planning Department through the site plan review process as described in the Regulation. 6. Prior to land use permit approval, the two parcels containing the electric substation shall be aggregated. 7. A decorative ~~ten~~ eight foot masonry wall shall be constructed on the north, south, and east sides of the proposed substation equipment. 8. The proposed chain-link fence on the southern part of the west side of the equipment shall be moved approximately 15 feet further away from the creek. The area in between the fence and the creek shall be improved with appropriate riparian vegetation to mitigate the removal of vegetation within the proposed easement and to help prevent the spread of noxious weeds. 9. The applicants shall grant an additional public access easement necessary to equal a total of 60 feet of right-of-way for Lincoln Street (approximately 10.5 feet). 10. The applicant shall grant the required additional public street and utility easements for one-half of a 90 foot right-of way (45 feet) for South Church Avenue. The following deletions, additions, and corrections were made to the conditions: 2. This conditional use permit shall not be valid until the applicant has obtained a land use permit from the County and a building permit from the City of Bozeman if required. 7. ~~A decorative ten-foot masonry wall shall be constructed on the north, south, and east sides of the proposed substation equipment.~~ 11. Within one year of commencing construction of the expansion, a ten-foot tall masonry wall shall be built around the north and east side of the proposed substation expansion. 12. One of the existing transformers shall be phased out and removed within six months of completing the installation of the new transformers. The other "old" transformer and other "old equipment" no longer required for the substation shall be phased out and removed within seven years of CUP approval. 13. Within one year of removing the "old equipment", or within seven years of CUP approval, whichever comes first, a ten-foot tall masonry wall shall be built on the south side of the substation, and in compliance with the side yard setback standards. 14. Prior to land use permit approval, the applicant shall provide proof that they have obtained all necessary permit(s) for the relocation of the septic system for the house at 1507 South Church, or a letter from the Gallatin City-County Health Department verifying that the current treatment system is valid and does not require modification due to the substation expansion. 15. Applicant shall record a waiver of right to protest annexation into the City of Bozeman. 16. Applicant shall comply with Section 46.070.B of the Regulation which addresses general maintenance of landscaping: a. Required landscaping must be maintained in a healthy, growing condition at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as needed. Any plant that dies must be replaced with another living plant that complies with the approved landscape plan. Failure to maintain required landscaping in a healthy growing condition at all times may result in revocation of an occupancy permit. When enforcing this provision of this title, external factors such as seasonality and availability of landscape stock shall be considered before any action to revoke an occupancy permit is taken. B. Any damage to

utility lines resulting from the negligence of the property owner or his agents or employees in the installation and maintenance of required landscaping in a utility easement is the responsibility of the property owner. If a public utility disturbs a landscaped area in a utility easement, it shall make every reasonable effort to preserve the landscaping materials and return them to their prior locations after the utility work. If, nonetheless, some plant materials die, it is the obligation of the property owner to replace the plant. Mr. O'Callaghan pointed out the following exhibits submitted with the staff report: Exhibit "A", NorthWestern Energy's application and supplemental information; Exhibit "B", Correspondence from the City of Bozeman; Exhibit "C", Petition from adjoining property owners; Exhibit "D", Petition from neighborhood; Exhibit "E", List of concerns etc. handed in with petitions; Exhibit "F", Written comments received from the public; and Exhibit "G", NorthWestern Energy's site plan. Rona Brockman, NorthWestern Energy explained the application request. She submitted a letter of support from Doug Hardy, General Manager of Park Electric Cooperative labeled Exhibit "K", and the NorthWestern Energy pamphlet labeled Exhibit "L". Ms. Brockman acknowledged that they were in agreement with the conditions. Jennifer Madgic, County Planning Director received two letters of opposition from Michael Dunn and Bill Phillips. Public testimony: G. K Reiser, submitted Exhibit "M", drawing and footprint of development. Bart Manion spoke regarding his concerns with the preservation of Bozeman Creek, cottonwood trees in the area, and property values. Mr. Manion submitted Exhibit "N", mitigation costs for design vs. costs for burying lines. Mr. Manion read a letters written by real estate agent Dick Stavanti, and broker Vern Bitz commenting on issues that could be detrimental to property values. Attorney Christopher Williams retained by adjacent property owners stated needs for experts to complete studies and requested that the Commission postpone their decision on this matter. Jim Pepper was concerned that this was a city issue more than a county issue and urged the Commission to defer their decision and consult with the city. Mr. Pepper also commented that he wants this site to be away from the floodplain. Ms. Brockman responded to public comment issues that included annexation, floodplain, underground lines, storm drainage and landscaping plan. Appraiser Dennis Hoeger spoke regarding his experience relative to the affect of transmission lines on private property. Based on his studies in the Kalispell/Flathead area, he could not support a loss in value for property that abuts a power line. NorthWestern Energy engineer Jim Cole addressed comments regarding various issues raised relative to the substation. Mr. Cole pointed out alternative substation sites. Discussion took place with regards to annexation into the city. Ms. Brockman stated that NorthWestern Energy agreed to sign a waiver of their right to protest annexation. Randy Sullivan, Director of Operations for NorthWestern Energy explained that they went to the city to see if any permitting was required and they were told they could annex however it was not necessary. Mr. Sullivan reiterated that they were in agreement with the conditions. Commissioner Murdock stated that he would like to see a requirement that NorthWestern Energy post a landscape bond. Mr. Sullivan stated they would be willing to accept that as a condition. Further discussion took place with regard to the urgency of this project. Kate Dinwiddie, Deputy County Attorney advised the Commission to look at each and every one of the CUP findings and establish a thorough and complete record on why they think the applicant has or has not met each one of those conditions. **Commissioner Murdock moved to approve, subject to the conditions as presented by staff #1, 2, 3, 4, 5, 6, strike 7, add new conditions as presented by staff 11, 12, 13, 14, 15, 16, and add condition 17, which requires the posting of a landscape bond accepted by the County Attorney's office and the Planning office and condition 18, that the applicant enter into a non-interference with the transmission lines with their communications apparatus on the water tower agreement acceptable to the City of Bozeman. Seconded by Commissioner Mitchell.** In reference to the criteria in Section 53.030A, Commissioner Murdock made the findings that there would be a decrease in decibels, an improved landscaping plan, and improved reliability of service. He believed with the landscape bond, improved landscaping, the wall and other designs would be better than what currently exists. He added that there was no data based on the professional appraisers opinion showing adverse effects to the adjoining property values. He added that it met the criteria terms of A and B, and complies with the landscaping and parking and general development standards especially if they need a building permit and flood plain permit. He noted that all the requirements of the landscape plan would address E, in Section 53.030A. **It was noted that Commissioner Murdock intended to include conditions #8, 9, and 10 in the motion.** Commissioner Mitchell commented that the mitigations were adequate and going to improve the values overall. Commissioner Vincent did not dispute the need for expansion however he was not in support of the motion because it was the wrong facility in the wrong place at the wrong time. **Commissioners Mitchell and Murdock voting aye. Commissioner Vincent voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 12:21 A.M.

PUBLIC MEETING

TUESDAY THE 28th DAY OF JANUARY 2003

The meeting was called to order by Chairman John Vincent at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Clerk to the Board Shelley Vance.

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Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

JANUARY 20-21, 2003

- The Commissioners conducted regular County business.

JANUARY 22, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, Treasurer Anna Rosenberry, Road and Bridge Superintendent Lee Provance, Chief Deputy County Attorney Chris Gray, Commission Secretary Rose Murrish, and Commission Assistant Glenda Howze. The Commissioners considered approval of a request for a budget transfer for the Road Department. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a request for a budget transfer for the public safety fund. Commissioner Murdock made a motion to approve said request. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of an agreement between Gallatin County and Baxter Meadows Development for Tract 3A of COS 2202A, to be used as Open Space Land. Chief Deputy County Attorney Chris Gray explained that this is a matter of good faith and the contract does not open the county up for any kind of liability. Commissioner Murdock made a motion to approve said contract on the advise of Attorney Gray. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners received an update on the A&E Property from Attorney Gray. Mr. Gray explained that an auction sale couldn't occur if the bids are not at the appraised value of the property, which is \$58,000. There are two options available at this point. A quiet title action can be filed and then title insurance can be issued or the County can proceed with the sale and cover all of the bases with contractual clauses. Commissioner Murdock made a motion to pursue the quiet title before putting the property up for sale. Commissioner Mitchell seconded the motion. The motion was amended to include the quiet title will be paid up to a maximum of \$2,000. Commissioner Mitchell seconded the amendment. All voted aye. Motion carried unanimously.

The Commissioners discussed the local government retention and disposition schedules. Treasurer Anna Rosenberry agreed to check into having someone from Missoula County who is very knowledgeable and informed on this matter to come speak to county staff on this matter.

Commissioner Murdock made a motion to accept the resignation of Tony Kolnik from the Four Corners Advisory Council. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

JANUARY 23-24, 2003

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated January 23, 2003, in the amount of \$415,849.28.
2. Request for Common Boundary Relocation Exemption for Steve Osman, located in the NE ¼ of Section 23, T2S, R4E, PMM, Gallatin County, Montana. (#77 upper Rainbow Road, Bozeman, MT) Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Common Boundary Relocation Exemption for Mike and Cindy Hertzog, Lonny Walker, and Jack Sauther, located in the NW ¼ of Section 18, T1N, R4E, PMP, Gallatin County, Montana. Ralph Johnson Planning Consultant for Manhattan reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Mitchell read the consent agenda. Commissioner Mitchell requested that consent agenda Item #3, be placed on the regular agenda for clarification. **Motion by Commissioner Mitchell to adopt the consent agenda, as modified. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Ralph Johnson, Planning consultant for the Town of Manhattan explained the plat map and ownership for the Hertzog-Walker-Sauther common boundary relocation exemption. **Motion by Commissioner Mitchell to approve. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

One vacancy exists on the Planning and Zoning Commission board due to the term expiration of Anne Trygstad. This position is for a two-year term and will expire on February 1, 2005. Ms. Trygstad was notified and indicated a desire to be reappointed to the board. To date three additional applications have been received from Mike McCormick, Raymond Carroll, and Tony Novotny. There was no public comment. **Commissioner Murdock moved to reappoint Ann Trygstad. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the continuation of a request for common boundary relocation exemption for Kenneth Vidar/Thomas Langel (Meken Corp. and Hill Country, Inc. dba Gallatin River Ranch/ Thomas C. and Sharon D. Andrews, located in the SE ¼, NW ¼, of Section 22, T2N, R3E (High Meadow Road, Gallatin River Ranch). Mr. Scott noted that public comment was closed at the prior hearing. The purpose of the relocation of boundary is to convey enough acreage to the Andrews, (owners of Tract 40) which would allow them to receive a property tax reduction since their property currently is less than 20 acres. Mr. Scott explained in detail the reason it was unclear whether this claim meets the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act was due to Mr. Vidar and Mr. Langel's past history with exemptions. Mr. Scott pointed out other options for Mr. Andrew's was to go to the DOR and request that his land be classified as agricultural if it is less than 20 acres, or purchase the adjacent lot that Vidar/Langel own. **Motion by Commissioner Murdock to deny the relocation for common boundary exemption for Andrews. Seconded by Commissioner Mitchell, finding that information was received about the legal case regarding the movement of boundary lines within this subdivision from the Planning Staff at the last Vidar/Langel application hearing. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for correction of error to amend plat of Lots 45 and 46 of Mount Ellis Meadows, Fort Ellis Community, Phase 1-B Subdivision, located in the SE ¼ of Section 16, T2S, R6E, PMM, Gallatin County, Montana. The purpose of the proposed amended plat is to relocate the designated driveway serving Lots 45 and 46 of the Mount Ellis Meadows Major Subdivision. The application is being made at the request of the County Road Superintendent, specifically to improve safety along Fort Ellis Road. Section 13.E of the Gallatin County Subdivision Regulations allows for "correction of errors" that in the Commission's opinion "will not materially alter the plat." The Gallatin County Road and Bridge Department initially required the driveway access to subject lots at a location that has now been determined to be dangerous. The request for the amended plat will place the driveway access easement at a safer location. Applicant Lee Provance, County Road and Bridge Superintendent stated the amended plat is made specifically to improve safety along Fort Ellis Road. Tom Henesh, Morrison-Maierle stated that original plat approval required access to be shown on the plat. **Motion by Commissioner Mitchell to approve the revised driveway easement as requested by the County Road Superintendent in the interest of public health and safety, finding that no public testified against it. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for family transfer exemption for Richard A. and Patricia Smith, located in the S ½ of the NW ¼ of Section 23, T2S, R7E, PMM, Gallatin County, Montana (Woodchuck Road). Mr. Scott briefly summarized the exemption request. The applicant's representative, Mark Chandler of C & H Engineering and Surveying provided the history of the McMillan family transfer of which this parcel was a remainder parcel and sold on contract to Richard A. Smith. Richard A. Smith was sworn in and testified under oath answering questions to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Murdock stated that is a proper use and moved for approval, based on answers to the questions. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for preliminary plat approval for Gaston Engineering & Surveying, P.C., on behalf of the State of Montana DNRC for the Mandeville Homesite Minor Subdivision, located on the north side of Mandeville Road, and is approximately 1/3-mile west of North 7th Avenue. The property is described as a tract of land located in the SE ¼ and SW ¼ of Section 36, T1S, R5E, PMM, Gallatin County, Montana. The request is to subdivide a presently 270.8 acre property, into one 5-acre residential lot with a remainder of 265.8 acres within the Manufacturing Industrial (M-1) District of the Gallatin County/Bozeman Area Zoning District. Water supply is provided by the City of Bozeman public water system. Sewage disposal is provided by an individual septic system. The property is owned by DNRC and John and Donna Mandeville live in the residence located on this property. DNRC intends to deed the property to the Mandeville's. On September 10, 2002, the Gallatin County Commission approved Resolution #2002-095 amending the Gallatin County/Bozeman Area Zoning Map changing the zoning from Agricultural Suburban (A-S) to Light Manufacturing (M-1) on the proposed 5-acre parcel. The zone change to M-1 was done for the sole purpose of creating a 5-acre parcel, which the A-S zoning would not allow. The Gallatin County Planning Board recommended unanimous approval, based on the previous zone change application reviewed by the Board and the current staff report submitted to the Board, that it complies with the provisions of the Gallatin County Subdivision Regulation; the requirements of the Montana Subdivision and Platting Act; and, with the 1990 Bozeman Area Master Plan Update Neighborhood Plan revision to the Gallatin County Plan. Mr. Scott briefly summarized staff report that contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determinations: 1. A determination as to whether or not the application complies with the 1990 Bozeman Area Master Plan Update Neighborhood Plan Revision to the Gallatin County Plan. 2. A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act. 3. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves of this application, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. Prior to final plat approval, the existing sewer system shall be approved by the Gallatin City-County Health Department (GCCHD). Written evidence from the GCCHD shall be given to the Gallatin County Planning Department as part of final plat submittal. 4. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2. of the Gallatin County Subdivision Regulations. 5. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: "*The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever*". 6. The subdivider shall file and record a ditch easement for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. If a separate written agreement of filed easement has already been done, the subdivider shall provide documentation prior to final plat approval. 7. Prior to final plat approval, the subdivider shall obtain written verification from the Fire District that the required water supply and other requirements of the fire district have been met. (Please see attached comments). 8. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 9. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 10. The applicant shall provide a mitigation plan for Sheriff services that is acceptable to the County Commission. 11. The final plat should contain a statement informing property owners of the subdivision that nearby uses may be agricultural. Property owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. 12. Two copies of the following

documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Any and all improvements agreements. b. Certificate of a Licensed Title Abstractor. 13. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 14. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Dennis Foreman, Gaston Engineering stated that this is an existing residence and not creating any addition impact and therefore requested that conditions #9, 10, be deleted. He requested a change in the wording for condition #6, requiring that a ditch easement be put on the final plat instead of filing a separate document with the Clerk and Recorder. Further discussion took place with regards to fire impact fees. Bryan Connelley, Assistant Belgrade Fire Chief addressed the water supply issue and fire impact fee requirement. He pointed out with an existing home on the property they are not subject to the fee however he recommended they keep the condition to maintain consistency with other subdivisions. Discussion took place regarding the language in condition #9. Randy Johnson, Manager of Subdivision and Zoning Review did not believe it was necessary to add additional language because the condition states that the applicant shall comply with the Fire Impact fee policy, which provides options for waivers, reductions and independent studies. Therefore by leaving that condition, the applicant has those options. There was no public comment. Commissioner Vincent announced that the record was clear that there are going to be no fire impact fees assessed in this particular situation. Mr. Foreman acknowledged they were in agreement, noting they would request a waiver of the impact fees through the regulations with final plat approval. Discussion regarding language for condition #6. Condition #6 will read as follows: The subdivider shall file and record on the final plat a ditch easement for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. If a separate written agreement of filed easement has already been done, the subdivider shall provide documentation prior to final plat approval. **Finding this subdivision complies with the 1990 Bozeman Area Master Plan Update, the Neighborhood Plan process and that it meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations and 76-3-608, Commissioner Murdock moved for approval, subject to all the conditions as presented by staff and as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Ralph Johnson, Planning consultant for Town of Manhattan, reported on the public hearing and consideration of a request for preliminary plat approval for Clifford D. Schutter for the Schutter Minor Subdivision, located in the SW ¼ of Section 31, T2N, R3E, PMM, Gallatin County, Montana. The property is generally located on the south side of Frontage Road (US-10) approximately three miles west of the Town of Manhattan. This proposal is located within the Manhattan City-County Planning Board's jurisdiction and at their December 11, 2002 meeting the Board reviewed the applicant's submittal. Since this is a first minor subdivision no Environmental Assessment or public hearing is required. The Board reviewed the application with regard to its effect on agriculture, agricultural water user facilities, local services, the natural environment, townscape character, wildlife and wildlife habitat, public health and safety, and its harmony with the natural environment. The Board voted to recommend approval of the proposed subdivision. Mr. Johnson briefly summarized staff report that contained criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission has to make a determination as to whether the proposed subdivision should be approved. The basis for the County Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. Staff recommends approval of the subdivision with the following conditions for final plat approval suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. The applicants shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 3. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 4. A Certification of Exemption from the Sanitation in Subdivisions Act (M.C.A. Title 76 Chapter 4) must appear on the final plat. 5. A Memorandum of Understanding shall be signed between the Weed Control District and the applicants prior to final plat approval. 6. The applicants shall record the following covenants on or with the final plat: a) *The property owner shall be responsible for the control of County declared noxious weeds.* b) *Individual lot accesses from public roads shall be built to the standards of Section 7.G.2 of the*

Subdivision Regulations. c) Lot owners and residents of the subdivision are informed that nearby uses may be farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. d) All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. e) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission. 7. Two copies of the covenants, a copy of the conditions of preliminary approval, documents establishing the property owners' association, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and certificate prior to final plat approval. 8. The applicant shall obtain an encroachment permit from the State Highway Department. 9. The applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations (\$1,596 per lot).* 10. The applicant shall make payment of fire impact fees in accordance with the Gallatin County Subdivision Regulations (\$496 per lot).* 11. The applicant shall provide an appropriate fire protection method in accordance with the Subdivision Regulations. The sub-divider shall have the Manhattan Rural Fire District review and approve the fire protection method prior to final plat approval. The sub-divider shall obtain written verification from the fire district that the requirement has been met. 12. The applicants shall have three (3) years to complete the above conditions and apply for final plat approval. A request from Gaston Engineering was noted, to waive the requirements for the road and fire impact fees. Brent Miller, Gaston Engineering spoke regarding the existing approaches, noting there was no requirement for approach permits therefore condition #8 could be stricken. Commissioner Mitchell requested documentation from the Montana Department of Transportation stating that fact. There was no public comment. Commissioner Murdock supported the request to delete conditions #9 and 10, because there is an existing structure and the remainder is not subject to review. This would also be consistent with the prior preliminary plat approval. **Finding that this has been approved by the Manhattan City-County Planning Board and that it meets all the county subdivision platting requirements, and State Statues, Commissioner Mitchell moved approval, subject to all the conditions except for conditions #9 and 10, and with the understanding that condition #8 will be satisfied with a letter from MDOT. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 10:20.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 4th DAY OF FEBRUARY 2003

The meeting was called to order by Chairman John Vincent at 9:04 A.M., at the City Commission Meeting Room. Also present were County Commissioners and Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

JANUARY 27, 2003

• The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Chief Deputy County Attorney Chris Gray, Deputy County Attorney Kate Dinwiddie, Finance Officer Ed Blackman, Commission Secretary Rose Murrish, and Commission Assistant Glenda Howze. The Commissioners considered approval of a title transfer and bill of sale for a vehicle at the Gallatin County (Pogreba) Airport. Commissioner Murdock made a motion to approve the transferring of motor vehicle title and signing of bill of sale, with the inclusion of the words "as is with no warranty." Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a memo to Intermountain Administrators regarding small pox vaccinations. Commissioner Murdock made a motion to approve the sending of said memo. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a request from Ms. Howze to have High Flat re-keyed. Many keys have been issued and are no longer traceable. Northwestern Energy is concerned about the security of the matter and would like to re-key and re-issue keys to current users. The Commissioners agreed to have High Flat re-keyed and in the future keys will be distributed and tracked from the Facilities Department.

JANUARY 28, 2003

- The Commissioners conducted regular County business.

JANUARY 29, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, County Attorney Marty Lambert, Chief Deputy County Attorney Chris Gray, Deputy County Attorney Kate Dinwiddie, Environmental Health Director Tim Roark, Planning Director Jennifer Madgic, and Commission Assistant Glenda Howze. The Commissioners discussed a Memorandum of Understanding between Gallatin County and the YMCA. Mr. Gray explained that this is a political document not a legal document, and it simply expresses the County's interest in negotiating with YMCA for a portion of the new parkland. The Commission agreed to proceed with the adoption of the Memorandum of Understanding.

The Commissioners considered authorizing the County Attorney to file action in District Court with regards to the payment of a claim from St. Paul Insurance in the amount of \$15,000 for the Lewis settlement. Former Auditor Joyce Schmidt denied the claim on December 31, 2002 @ 4:55 p.m. In Mr. Lambert's opinion, statute indicates that the new Auditor does not have the authority to reverse the denial, but it must be taken to District Court for a reverse of the decision. Commissioner Murdock made a motion to authorize the County Attorney to file a claim in District Court as suggested for payment of the claim to St. Paul Insurance for \$15,000. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Clerk and Recorder Shelley Vance discussed with the Commission the possibility of purchasing a For The Record (FTR) system for use in the newly remodeled Community Room for taking minutes. This would change the way minutes are done, making them more automated. The minutes will be available on CD with an abbreviated log to indicate where on the CD certain topics and/or actions are located. The Commissioners gave Ms. Vance their blessing to proceed with inquiry into purchasing the system.

The Commissioners considered signing a Planalp building lease extension. Mr. Blackman recommends approval, as there is no choice but to sign a one-year lease extension with an option for four optional extensions. There are no other options available that would allow us to buy, remodel and occupy by July 1. Commissioner Murdock noted that he would be abstaining from any action taken on this item as he has a business partnership with Mr. Planalp and does not want to create a situation for conflict of interest. The letter is an offer for Mr. Planalp to consider, that states the building's value has lessened, not increased and reaffirms that he is responsible for maintenance of the outside of the building and the County is responsible for the maintenance of the inside. Commissioner Mitchell made a motion to approve a one-year extension on the Planalp building lease in the form of an offer to Mr. Planalp. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero; Commissioner Murdock abstained from the vote.

The Commissioners considered a request from Kevin Cook regarding the Walton Homestead Property adjacent to the Rest Home. Mr. Provance has indicated in a letter that there is no direct public benefit to the public for approving this request. Ms. Dinwiddie stated that the County shouldn't be involved in this development project because there is no direct benefit to the public and if the County were to desire to trade property to Mr. Cook for the development of a road, the land would need to go through the public auction process in order to ensure that they are receiving fair value for the land. Commissioner Mitchell made a motion to respond to Mr. Cook that there is no public benefit. Commissioner Murdock seconded the motion. In discussion it was noted by Commissioner Murdock that the plan outlined in the memo is not the same as that presented to him verbally by Mr. Cook, and that he is changing his mind on the matter upon the advice of Ms. Dinwiddie. All voted aye. Motion carried unanimously.

JANUARY 30, 2003

- The Commissioners attended a special meeting for the purpose of discussing interface fire operations planning. In attendance were Commissioners Vincent and Murdock, Planner Randy Johnson, Brian Crandall, Pete Geddes, Dave Lucas, and Commission Assistant Glenda Howze. The guests explained that there are 10 miles of interface between the Rae and Sourdough Fire Districts. They explained the many months of work the two districts have done, creating maps and plans to assist them if they to experience a fire that encompasses both districts. They considered two fire scenarios – prairie and out of trees to the prairie. Wind speed, weather, moisture was all considered in the scenarios. The plans were presented to the Commission and they were asked to write a letter of support for the plan to the districts. They asked that the Commissioners consider the following: 1) Affirmation of the Commissions' commitment to understanding and respecting the roles and responsibilities, as described in the appropriate

sections of Montana Code Annotated, of the Gallatin County Commission and the Trustees and Fire Chiefs (or designees) of the Sourdough Rural Fire District and the Rae Fire Service Area. 2) Support of the Gallatin County Commission in the use of the emergency 2 mill levy to help off set extraordinary costs associated with the response to an interface fire incident effecting the Sourdough and Rae areas. 3) Affirm the commitment of the Gallatin County Commission to continue to execute their fiduciary responsibility to the citizens of Gallatin County during an interface fire incident. (duty of good faith, fair dealings, and full disclosure) and 4) Provide pre-authorization for the Sourdough and Rae Fire Departments to use Nash Park for the purposes of a base of operations and support area during an interface fire incident. The Commissioners agreed to write a letter confirming these items. A thank you is due to the GIS Department for all of their assistance in this project.

JANUARY 31, 2003

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated January 30, 2003, in the amount of \$911,687.95.
2. Approval of Contract(s): Amendment to Contract 2003-047, Agreement for Receipt of Resort Tax Funds.
3. Approval of Applications for Cancellation of Personal Property and Mobile Home Delinquencies Over 5 Years.

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

The Commission was advised by Deputy County Attorney Kate Dinwiddie to indefinitely continue regular agenda Item #10, public hearing and consideration of an exemption under eminent domain for Westland Enterprises, Inc., TM Land Partners LP and Big Sky Water and Sewer District No. 363, because the wrong statutes were sited on the plat. **No action taken.**

Eight vacancies exist on the Open Lands Board due to the term resignations of Verna Lou Landis, Del Kamerman, Greg Leep, Carl Schutter, Devon Sorlie, Terry Lonner, Archie Alexander, and Norman Eggert. All were notified, and Mr. Kamerman, Mr. Schutter, Mr. Alexander, and Mr. Eggert indicated a desire to be reappointed. Ms. Landis, Ms. Sorlie, Mr. Leep, and Mr. Lonner indicated that they are no longer interested in serving. These positions are for two years and will expire on February 9, 2005. To date, four additional applications have been received from Don Jackson, Vito Quatraro, Ryan Trenka, and Paul Rubright. It was requested by the Open Lands Board Coordinator that if the Commission so chooses, appointment of those members seeking reappointment can take place at today's meeting and the vacant positions can be filled in three weeks following an extended advertisement period. There was no public comment. Commissioner Mitchell was in agreement to reappointing existing members and allowing additional time to review the new applications. **Commissioner Mitchell moved to reappoint Mr. Kamerman, Mr. Schutter, Mr. Alexander and Mr. Eggert. Seconded by Commissioner Murdock. None voting nay. Motion carried.** Appointments to the remaining positions on the Open Lands Board were continued for approximately three weeks. One vacancy exists on the Yellowstone Country Board due to the resignation of Scott Johnson. The appointee to this position will fill out the remainder of Mr. Johnson's term, to expire on April 30, 2004. To date, two additional applications were received from Elton Taft and Sarah Guggenheim. Terry Abelin, President of Yellowstone Country submitted a letter of recommendation for Mr. Taft's appointment to fill the vacancy. There was no public comment. **Commissioner Murdock moved to nominate Elton Taft. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on the public hearing and consideration of a request for a family transfer exemption for Lilah Drummond, located in the W 1/2, NW 1/4 of Section 1, and a portion of the SE 1/4 and the NE 1/4 of Section 2, T1N, R4E. (502 Duncan Road). Ms. Drummond briefly outlined the staff report, noting that it did not appear to be an attempt to evade the Montana Subdivision and Platting Act. Lilah Drummond was sworn in and testified under oath, answering

questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Satisfied with Ms. Duncan's answers, that this was the proper use of the exemption, Commissioner Murdock moved approval. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** Because the applicant stated that she was unaware of the questions that were to be asked of her, Ms. Drummond noted that staff did inform the applicant's surveyor that the applicant needed to be present and would be sworn in and asked these questions.

Ms. Drummond also noted that Deputy County Attorney Kate Dinwiddie spoke with the applicant for regular agenda Item #10, public hearing and consideration of an exemption under eminent domain for Westland Enterprises, Inc., TM Land Partners LP and Big Sky Water and Sewer District No. 363, and has now recommended that the Commission consider the request today. The Commission was in agreement.

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Puffs Way to Silverado Trail). This was a resident initiated petition and met the requirements for a name change. Public comment in support: Wolfron Lindenau and Jack Crowther. **Commissioner Mitchell moved to approve Resolution #2003-010. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allan Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Non Existing Road Name to Russell Lane). This was a county initiated change, because of a conflict of numbers. Public comment: Armina Joos. As one of the four residents on the road, Ms. Joos was opposed to giving up the name Jackrabbit Lane and preferred to see the road called something other than Russell Lane. She suggested using something unique such as Coyote Lane or Coyote Cove. Ms. Joos added that she was also speaking for her daughter Sherryl Greenig, a resident that was in agreement with her. Mr. Armstrong explained the process and criteria for selecting the new road name. After discussion it was agreed to postpone action indefinitely, and work with the residents to determine a road name acceptable to everyone. **No action taken.**

Gallatin County GIS Coordinator Allan Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Tobiano Trail to East Tobiano Trail and West Tobiano Trail and Cross Town Court to East Cross Town Court and West Town Court). This was a county initiated petition. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-011. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman, on behalf of Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of a request for approval of the Operation Freedom from Fear Grant Application to Montana Board of Crime Control. Mr. Blackman pointed out that this proposal was for next fiscal year. The match required is \$17,591.83 based, on the projected budget. Total grant is \$70,367.25. There was no public comment. **Commissioner Murdock moved to approve the Operation Freedom from Fear Grant Application to the Montana Board of Crime Control. Seconded by Commissioner Mitchell, pointing out that the Montana Board of Crime Control may not have adequate funding to fund these programs, given budget constraints and what is taking place with the legislature. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman, on behalf of Gallatin County Grants Administrator Larry Watson reported on the public hearing and consideration of approval of a grant application to the Montana Board of Crime Control for the Victim Services Program. Mr. Blackman noted this was a 25 percent co-match with the City of Bozeman. The county contribution is \$14,077, and \$7,580 for the City of Bozeman. Total grant is \$86,627.00. Commissioner Mitchell reiterated her prior concern with the Montana Board of Crime Control funding, and questioned whether or not Victim Witness was prepared to adjust their operations and accommodate with fees they collect. Victim Witness Program Director Gloria Edwards stated that their funds are federal funds, adding that she checked with the Board of Crime Control and was assured the Violence Against Women Act Funds are not decreasing.

She pointed out that the city is collecting more than their portion of the Victim Witness surcharge, and they are putting that in a reserve fund, so if they receive less grant funds than required, those funds would be allocated to this program. She also noted that their Victim Witness surcharge funds are greater than projected. Ms. Edwards noted the increased need for their services in Gallatin County. There was no public comment. **Commissioner Mitchell moved to approve the grant application for the Victim Services Program. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the resolution of intent to amend the Open Lands Board FY 2003 operating budget from revenue received from Motor Vehicle fees on special license plates. Open Lands Board Coordinator Mike Harris spoke regarding the amount of funds received from the special license plates. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-012. Seconded by Commissioner Murdock. None voting nay. Motion carried.** Gallatin County Finance Officer Ed Blackman reported on the resolution of intent to amend the Gallatin County Fair Board FY 2003 operating budget to include unanticipated revenues in the amount of \$59,200 for Winterfest activities. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-013. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of final plat approval for Middle Creek Village, Phase 1A, Minor Subdivision. Preliminary plat approval was granted on April 9, 2002. The subdivision includes the creation of 5 additional residential lots located in the Bozeman (off of Elk Lane, in the Cobb Hill area). Mr. O'Callaghan outlined the conditions of approval, noting that all conditions have been met. However, he pointed out that it was up to the Commission to determine if the applicant has satisfied condition #20 which read as follows: "Elk Lane shall be improved to Gallatin County gravel standards from the intersection of Beatty Road to the eastern most property line. The applicant and landowners using Elk Lane shall work with the Gallatin County Road Department to enter into a joint maintenance agreement for the continued maintenance and snow removal of Elk Lane". Mr. O'Callaghan noted that the applicant improved Elk Lane as required and sent out a letter to landowners using Elk Lane regarding a joint agreement for the continued maintenance and snow removal. The applicant only received two responses. A letter received from the applicant's representative R. Dale Beland concluded that the overwhelming majority was not interested. Commissioner Murdock stated that the wording of the condition was poorly written. George Durkin, on behalf of the Gallatin County Road and Bridge Department stated that it was his belief that the applicant made a good faith effort and that they fulfilled the condition. Further discussion took place with regards to changing the wording of condition #20. Deputy County Attorney Kate Dinwiddie assured the Commission that they were not changing the wording of the condition, only determining if the condition was met. Mr. Beland stated that this discussion came up during the preliminary plat hearing. It was his recollection that the Commission understood the status of these kinds of road therefore they asked the developer to make a good faith effort to find a way to establish a formal maintenance agreement. At that hearing the point was made that the applicant did not have the unilateral authority, or in Mr. Beland's view the responsibility to initiate the maintenance agreement by themselves. He stated that the applicant made a sincere effort and there was a very poor response therefore from the practical standpoint and from the literal wording of the condition, the applicant did everything possible to comply with the condition. He added if there is an opportunity for his client to participate on a fair-share basis with a proposed maintenance agreement for Elk Lane, that he was willing to do so. Developer Gene Cook stated from a practical and realistic standpoint that they would continue to maintain the road anyway. Further discussion took place with regard to adding a maintenance agreement to the covenants. After hearing the developers, staff, and the Road Department's explanation, Commissioner Murdock did not see how they could expect anymore than what has been done, given the situation and the wording of the condition. **Satisfied that all the conditions of approval have been met, Commissioner Murdock moved to grant final plat approval. Seconded by Commissioner Mitchell.** Commissioner Mitchell questioned staff regarding whether or not something prevented them from adding a covenant regarding the maintenance agreement. Mr. O'Callaghan replied that a property owners association has been formed for the maintenance of the interior roads. However he did not know whether or not covenants have been included as part of final plat approval for the maintenance of another road. Gallatin County Road and Bridge Superintendent Lee Provance stated that previously Elk Lane was under the jurisdiction of the homeowners in the area. He added that they could not make the applicant solely liable for the maintenance of the road. He stated that all they could do was encourage the applicant and that was why the condition was so generalized. **None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on the public hearing and consideration of an exemption under eminent domain for Westland Enterprises, Inc., TM Land Partners LP and Big Sky Water and Sewer District No. 363, located in the NW ¼ and NE ¼ of Section 31, T6S, R4E, PMM Gallatin County, Montana. The proposal is to transfer Tract 1 (32.96 acres) to Big Sky Water Sewer District No. 363. The property is located in the Gallatin Canyon/Big Sky Zoning District, zoned Residential Multi-Family 3500 (R-MF-3500). The application states that the exemption tract is to be used as a wastewater facilities site however; staff was notified that Big Sky Water and Sewer did not have any immediate or future intentions of using it as a wastewater facility site. It would be used as open space in a residential zoned area. The claimants proposed use of subdivision review exemption was based on eminent domain, MCA 76-3-201 (1) (a) which is allowable in the absence of an agreement between the property owners and the District. Ms. Drummond noted that staff was notified that there was a sale pending for a purchase price lower than market value for the property. She pointed out that since it is already zoned residential that any use of this as a wastewater facility would require a Conditional Use Permit, requiring another application in the future. Design standards for stream access and preservation would come into play with the Gallatin Canyon/Big Sky Zoning District because of the West Fork River, the south boundary of the tract. Deputy County Attorney Kate Dinwiddie stated the reason for the suggested continuance was because the statutes cited on the plat were incorrect. After discussing this with the applicant, it was agreed that they would make the correction on the original plat and the application. Ms. Dinwiddie stated that they could proceed and asked that all three Commissioners initial the appropriate correction. Vice President of Westland Enterprises Bill Simkins spoke in support of the exemption. General Manager of the Big Sky Water and Sewer District Ron Edwards commented on the potential uses of the land. **Finding this is the proper use of the exemption, Commissioner Murdock moved approval, adding it was very fitting that eminent domain is used in the absence of agreement between parties. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing and consideration of the first reading of a speed reduction ordinance for a portion of Cameron Bridge West Road. A speed study was performed on Cameron Bridge West Road on September 10, 2002, and the mean average speed was 41.8 MPH, with an 85-percentile speed of 41.7 MPH. He believed the speeds were a little bit low because the speed study was done at the intersection of Thorpe Road and Cameron Bridge West Road. He recommended that the speed be set at 45 MPH. Commissioner Vincent requested that the first full reading of the ordinance be waived. There was no objection. Public comment: Sonya Berg spoke in support of the suggested speed limit and requested additional signage and stripping. **Commissioner Mitchell moved to approve Ordinance #2003-02. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing and consideration of the first reading of a speed reduction ordinance for Dawn Drive. Mr. Provance stated that Dawn Drive is a subdivision road and it has been the general policy of the Commission to pass 25 MPH speed zones within subdivisions. Commissioner Vincent requested that the first full reading of the ordinance be waived. There was no objection. There was no public comment. **Commissioner Mitchell moved to approve Ordinance #2003-03. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing and consideration of the first reading of a speed reduction ordinance for Ousel Falls Road. Mr. Provance stated that Ousel Falls Road is a public road, not in the county's jurisdiction. He agreed that the petitioner's assumption that the speed limit should be reduced to 35 MPH was accurate. Commissioner Vincent requested that the first full reading of the ordinance be waived. There was no objection. There was no public comment. **Commissioner Mitchell moved to approve Ordinance #2003-04. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing and consideration of the first reading of a speed reduction ordinance for Ross Creek Road. Mr. Provance stated that Ross Creek Road is a gravel road, maintained by the County Road Department. Because the road is gravel, has a rolling hill and curves; Mr. Provance endorsed the request to reduce the speed limit to 35 MPH.

Commissioner Vincent requested that the first full reading of the ordinance be waived. There was no objection. There was no public comment. **Commissioner Mitchell moved to approve Ordinance #2003-05. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Chief Civil County Attorney Chris Gray reported on the public hearing and consideration of intention to construct a facility on county lands between Gallatin County and the Gallatin Valley YMCA. Mr. Gray explained the purpose of the Memorandum of Understanding was essentially to commence mutual good faith negotiations between the county and the YMCA for the purposes of a lease of approximately 15 acres of the eastern portion of the newly acquired property for the regional park in the City of Bozeman. Mr. Gray summarized the MOU, noting that it was not a legally binding contractual agreement. The process stems from the original hearing for the use of the Open Space money where the applicant FORParks (non-profit corporation), proposed the Open Space Bond money. Included in that presentation was the use of a portion of the park by the YMCA. Mr. Gray made note of a letter the Commission received from Attorney Susan B. Swimley asking that they not sign the MOU with the YMCA for numerous reasons. Commissioner Mitchell questioned if an MOU was absolutely necessary at this time before the county funds have been procured for the basic infrastructure and facilities. Mr. Gray stated if they did not want to do it, now was the time before wasting a lot of resources. He added that this document provided the opportunity to essentially see if the political will of the Commission was to move forward or not. It was pointed out that the MOU would not preclude them from addressing some of the concerns stated in Ms. Swimley's letter in the lease. Gallatin Valley YMCA President Bratton DuBose spoke about the YMCA organization, the benefits, the programs offered, and those individuals they serve. He pointed out that they have always focused on reaching out to other non-profit and for-profit groups to determine collaboration opportunities in addressing many unmet needs of the community. Public comment: Missoula Family YMCA CEO Pat Dodson spoke regarding his experiences of being with the YMCA for 33 years. He commented on the fees and percentages of memberships, submitting Exhibit "A", a membership breakdown. Paul Petr on behalf of Gallatin Valley YMCA commented on his plans for assessing the regional need for the YMCA in the Gallatin Valley, and helping the YMCA and the community assemble the capital. He believed that a YMCA would add to the quality of life in the Gallatin Valley. Mr. Petr submitted letters of support to the Commission from the following non-profit organizations: Big Brothers Big Sisters; Eagle Mount; MSU Employee Wellness Programs; Young at Heart, MSU; Barracuda Swim Club; and Alcohol & Drug Services of Gallatin County. President of FORParks Martha Lonner reaffirmed that the YMCA was a part of the regional park plan early on in the process. FORParks member Dick McConnen commented on the YMCA schedule of activities, noting the broad range of community needs that would be served. He pointed out that the YMCA is run by a local board and will reflect local public interest and concerns. He believed the YMCA and the park would be complementary, noting the physical presence on the site would also help provide the ability for security for the facilities in the park. Charles Kirk was unavailable to speak. Open Lands Board member Terry Lonner emphasized that land conservation as well as parks and recreation was always there, and this was part of the parks and recreation aspect of the Open Lands Board agenda. He added that the YMCA was a positive carrot to the acquisition of the regional park. YMCA Attorney Russ McElyea stated the MOU would enable the YMCA to establish a momentum in their fund raising efforts and enable them to plan, with the county's verbal commitment that their planning efforts will not be wasted. Mr. McElyea commented on Ms. Swimley's letter, noting that the Commission had the authority to do what is being asked and sited several relative statutes. He commented on talk regarding the propriety of using Open Space Bond money for the creation of the park and building facilities. To resolve that, he stated examples from the Open Space Lands Act. He believed points made in Ms. Swimley's letter were premature because they were not asking for resources. He stated that the YMCA did nothing that anyone else did therefore; they would not be in competition with other businesses. He looked forward to the opportunity of visiting with other private sector individuals in the community and working with them to emphasize each other's strengths. He gave the Commission his personal assurance in response to comments regarding religious beliefs in Ms. Swimley's letter, that he would not be associated with this effort if he felt this was a band of zealots who were trying to inflict their individual religious beliefs upon the citizens of Gallatin County. Mr. McElyea found it very unsettling that Ms. Swimley would write a letter on behalf of a client that was not identified. FORParks member Carol Crowell spoke of the beneficial programs offered by the YMCA for all individuals. Larry Aasheim, owner of Universal Athletics Service and The Ridge Athletic Club wanted to understand the process better because of some concerns from the for-profit side of the community about what might happen with regards to a YMCA. Mr. Aasheim stated that he would help build and contribute to the YMCA as long as everyone could share input into the process, making it a win-win situation. He believed the Commission needed to consider all issues when negotiating a lease on public land for a facility that may provide some of the same services that are already being provided by the private sector of the taxpaying community. Commissioners Murdock and Vincent assured Mr. Aasheim that they were committed to seeing that everyone's needs were met with regards to working towards a win-win situation. Mr. DuBose reassured the Commission that it was the YMCA's intent from the beginning to involve all

those interested and concerned in building a compatible and complementary partnership network. He noted the shape and size of the YMCA and the programs to be offered would be determined by the needs of the community. Mary Vant Hull stated that the YMCA would be for the good of all Gallatin County, including the for-profit businesses. She believed there was no single factor about the regional park that was more interesting than having the YMCA. Mr. DuBose urged the Commission to vote for the MOU, enter into a good faith agreement with the YMCA and work with them to come up with an agreement on leasing the property that would be fair and acceptable to both parties. After hearing today's testimony, Commissioner Murdock stated that he was comfortable with the MOU, as written. Although she appreciated the desire for open communication, Commissioner Mitchell stated that she was still not hearing what she wanted to hear. She believed the YMCA was a fabulous organization with great programs and community collaboration. She was not worried about it competing with private enterprise and agreed there was a need however; her perspective was from a more fiscally conservative standpoint. She was concerned that this was the cart before the horse planning. She believed the next step would be for the FORParks group to be procuring funds for infrastructure requirements (streets, gutters, sidewalks, water supply, sewer, parking, restrooms, landscape, and maintenance) so they could support buildings like the YMCA. She would be far more supportive if the letters, support and testimony came from the Belgrade, Manhattan, Three Forks and West Yellowstone community councils and leaders, which would lead her to believe this was more of a regional park. She believed it would be irresponsible, with out any assurance they could provide health and safety infrastructure required for any new buildings or facilities therefore she was not going to support the MOU at this time. Commissioner Vincent stated the most important point was that the MOU did not preclude progress on several other fronts. He stated there was a compelling need for a facility such as the YMCA and given the expression of accommodation from the YMCA and Mr. Aasheim, he was assured if they worked together that they could work it out. In discussion, Commissioner Murdock preferred that the YMCA and the for-profits get together without a county driven task force and come back to the Commission with everything worked out along with the formal lease. Commissioner Vincent agreed that they could accommodate that and believed it would be healthy for the Commission to participate too. **Commissioner Murdock moved to sign the MOU for the YMCA location as prepared by the County Attorney's office. Seconded by Commissioner Mitchell. Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 12:15 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 11th DAY OF FEBRUARY 2003

The meeting was called to order by Chairman John Vincent at 9:03 A.M., at the City Commission Meeting Room. Also present were County Commissioners and Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

FEBRUARY 3, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, Treasurer Anna Rosenberry, Attorney Holly Brown, Dennis Carlson, Tom Baker, Jim Harris, and Commission Assistant Glenda Howze. The Commissioners discussed tax issues surrounding the Sunset Memorial Gardens Cemetery. The unpaid volunteer court appointed receivers, appointed by Judge Guenther to administer the cemetery following the arrest of Miles Eaton, is asking for assistance in order to get the title to the cemetery free and clear and have the liens and judgments against the property removed. Arletta Derleth, delinquent tax collector, has said that she is willing to work with the group on this matter. Ty Typolt with the Department of Revenue has stated that they will be reviewing the assessment and most likely agree that they have been over assessed, as the property has been assessed under the wrong category. To date, \$1650.00 in taxes has been paid and the group would like to see the remainder forgiven. Ms. Rosenberry stated that the Commission has the authority to waive the taxes retroactive to 1990. Commissioner Mitchell suggested that the group should work with the Treasurer on an equitable and statutorily sound decision. Ms. Rosenberry noted that if concessions

are made at this time, they will probably not carry over into the future once ownership is established. Ms. Brown stated that that this group is working voluntarily and she is doing the legal work pro-bono. Once the title is cleared the property can be turned over to an association or other owner and ownership can be taken out of Morgan's name. There is not a set timetable, there are lots of areas to be addressed and paperwork to be taken care of, but the sooner the better in order to move forward. The primary goal is to find a reputable owner to turn it over to and get the property back on the tax roles. It was determined that this item would be placed on the February 10 agenda for further discussion.

The Commissioners discussed the city-county road maintenance agreement. Commissioner Mitchell stated that both parties needed to be speaking the same language in the agreement. It was requested that Lee work with Deputy County Attorney Kate Dinwiddie to draft a list, cover letter, and signature page to accompany a revised agreement to the City.

The Commissioners considered approval of a request for inventory disposal from the Gallatin Airport board for a dump/snow plow truck. Commissioner Murdock made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

The Commissioners considered approval of a request for records disposal from the Treasurer's Office. Commissioner Mitchell made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

FEBRUARY 4, 2003

- The Commissioners conducted regular County business.

FEBRUARY 5, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, and Mitchell, Road and Bridge Superintendent Lee Provance, Staff Engineer George Durkin, Phil Forbes of Morrison Maierle, Commission Secretary Rose Murrish and Commission Assistant Glenda Howze. The Commission discussed the bear exhibit and facility at the Jackson Creek site, and the Baxter Meadows RID/SID. No action was taken on either matter. Regarding the RID, it was noted that the County has no legal obligation to enter into an SID/RID with the Baxter Meadows, but did agree to help seek federal funding if necessary. Legislative matters were discussed, but no action was taken on this matter either.

FEBRUARY 6-7, 2003

- The Commissioners conducted regular County business.

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- Landfill Revenue for January 2003: \$74,584.74.
- Payroll for January 2003: \$1,202,367.86.
- Clerk & Recorder's Fees Collected for January 2003: \$91,078.93.
- A-101's for January 2003: \$28.81.
- New Hire Report for January 2003: Betty Bradley, Mitchell Burch, Lornn Caldwell, Kendra Claussen, Mary Ellen Fitzgerald, Michelle Goodwin, Kiku Hanson, Caron Harrison, Jill Johnerson, Sarah Kaufman, Claudette Neal, Michael Rivas, Amanda Rufer, Kimberly Russell, Devon Stacey, Patricia Villalobos
- Terminated Employees' Report for January 2003: Zachary Dekay, David Hammerland, Casey Heberling, Adayle Hudyma, Danette McMillan, Ruth Piccone, Breana Ploen, KatieRose Selvey, Kristi Smith, Jeffrey Stanton

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated February 6, 2003, in the amount of \$667,959.73.
2. Approval of Contract(s): Agreement for Receipt of Resort Tax Funds for FY 2002-2003/Planning Dept.; Big Sky Law Enforcement Agreement Between Gallatin County, Madison County, and Big Sky Resort Area District; Storage Lease with Bozeman School District 7 and County Attorney's Office; and Tower Lease between WWC Holding Co., Inc. and Gallatin City-County of Bozeman Joint Communications/Dispatch Services.

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Murdock moved approval of the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution establishing the Forest Receipts-Title III Funds, setting the budget based on revenue received and calling for the solicitation of members of the Title III Projects Committee. Mr. Blackman stated that Gallatin County Grants Administrator Larry Watson agreed to be the lead person on this entitlement. Further discussion took place with regards to Mr. Watson being designated as the contact for the Federal Forest Receipts Title III allocations. Commissioner Mitchell pointed out that she would like to see Gallatin County Road and Bridge Superintendent Lee Provance involved, as there was a lot of opportunity to use this for county roads that lead to forest service lands. Pending further discussions, Commissioner Mitchell suggested the Commission alter the fifth Whereas to read as follows: WHEREAS, the County Commission will designate a contract for the Federal Forest Receipts TITLE III allocations; and. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-14, revising the resolution to read: WHEREAS the County Commission will designate a contact for the Federal Forest Receipts TITLE III allocations, and striking the Department Name and replacing the department number with 000. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for a family transfer exemption for Robert and Elizabeth Cline, located in the SE ¼ of Section 20, T1N, R5E. (5565 East Gallatin Road). Mr. Karp briefly outlined the staff report, noting that the exemption appears to meet the criteria for a family transfer with regard to the Gallatin County Subdivision Regulations and state law. Robert E. Cline was sworn in and testified under oath answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Murdock moved to approve the family transfer for Mr. Cline based on his testimony, noting this is exactly what the family transfer exemption is for. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing and consideration of the first reading of a speed reduction ordinance for a portion of Thorpe Road. A speed study was conducted August 29, 2002, on Thorpe Road and Cameron Bridge West Road. The speed study on Thorpe Road was petitioned and the results were as follows: mean average speed of 40 MPH, and an 85-percentile speed of 41 MPH. Mr. Provance recommended a 45 MPH speed limit for Thorpe Road. Commissioner Vincent requested that the first full reading of the ordinance be waived. There was no objection. Public comment: Sonya Berg spoke in favor of the speed reduction, noting concern with sign placement, stripping and garbage. **Commissioner Mitchell moved to approve Ordinance #2003-06. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of preliminary plat approval for the Jarrett Subsequent Minor Subdivision (Ross Creek Amended Plat, Tract 41 & 42), located in Section 35, T1N, R5E, Gallatin County, PMM, Montana; generally located west of Hamm Road, just south of Penwell Bridge Road. The proposal would create four-lots on approximately 20 acres. The proposed lot sizes are as follows: Lot 41A: 5.026 acres; Lot 41B: 5.026 acres; Lot 42A: 5.028 acres; and Lot 42B: 5.028 acres. The applicants requested one variance from the Road Design Standards of the Subdivision Regulations regarding paving of the primary access road (Penwell Bridge Road) as determined by the Gallatin County Road and Bridge Department. A public hearing was held before the Gallatin County Planning Board on January 28, 2003 (7:0 vote to recommend approval of the Jarrett Subsequent Subdivision). They voted unanimously in support of the variance request although there was some discussion as to the condition of Hamm Road and if it needed to be improved to county standards. There were no specific findings passed along with regard to the variance. The Board made the following finding to pass onto the Commission: Concern with Fire Requirements of the Belgrade Rural Fire District that are not standard Subdivision Requirements: a. The fire district shall receive a stamped set of engineered sprinkler system plans for review and approval. b. Inspections shall be scheduled, with a 48-hour notice, during construction and completion. Some Board members felt that the Fire District did not have the authority to impose conditions of approval not specifically listed in the Subdivision Regulations. They are standards from state law. Ms. Madgic briefly summarized the staff report that contained criteria for the Commission to evaluate for

considering the subdivision, along with the suggested conditions. The Commission has two determinations to make with this application: 1. A determination whether or not to approve the proposed variance regarding paving of Penwell Bridge Road (Section 7.F.3); and 2. A determination whether or not to approve the proposed subdivision. The basis for the Commission's decision shall be whether the preliminary plat, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations and Gallatin County Plan. If the Commission decides to recommend approval of the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Department of Environmental Quality approval shall be obtained for the subdivision. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall obtain the Gallatin County Health Officer's approval. 3. The following documents shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval: documents establishing the property owners' association, and the certificate of a licensed title abstractor. The County Attorney's Office shall review and approve documents establishing the property owners' association, and certificate prior to final plat approval. Covenants shall be submitted to the Planning Department for review and approval at least 30 days prior to final plat approval. 4. Applicant shall record with the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 5. All utility easements shall be shown on the final plat. Utility easements shall be twenty (20) feet wide, and be located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 6. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to final plat approval. 7. Applicant shall record the following covenants with the final plat (also including any covenants recommended by the Gallatin County Weed Control District and Belgrade Fire District): *a) The property owners' association shall be responsible for the control of County-declared noxious weeds. b) Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c) The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. d) The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. e) Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 8. Applicant shall establish a property owners' association or join an existing association for enforcement of the required covenants and maintenance of the new internal road. 9. A cul-de-sac, built to County standards, shall be required at west end of proposed internal access road. Internal access road shall be built to County gravel standards, with 60 feet of easement, dedicated to the public. 10. Applicant shall ask the County GIS Office for approval of new road names. 11. Applicant shall obtain an encroachment permit from the County GIS Office or Road Department for any access points coming off of County-maintained roads. Proposed lots are limited to one driveway access (with each access being at least 75 feet from the nearest intersecting County road). 12. Twenty feet of Hamm Road west of the centerline shall be dedicated to the public for the entire length of the development. **13. Applicant shall pave Penwell Bridge Road from Springhill Road to Hamm Road to County paved standards, with any necessary bridge improvements at the South Fork of Ross Creek.** 14. Applicant shall arrange a pre-construction meeting with the County Road Department prior to the start of any construction. 15. All road work shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), inspected and certified by a licensed engineer. Applicant shall provide such inspection to the Road Department in writing. 16. A two-year written warranty, from the contractor, shall be required on all County roads which are paved. Applicant shall be responsible for striping of roads as appropriate. 17. Any portion of a public right-of-

way disturbed during construction shall be sodded or re-seeded. 18. Applicant shall make payment of road impact fees in accordance with the Gallatin County Subdivision Regulations Impact Fee policy. 19. Applicant shall make payment of fire protection impact fees in accordance with the Gallatin County Subdivision Regulations Impact Fee policy. 20. Applicant shall meet the fire protection requirements in accordance with the Subdivision Regulations and the Belgrade Rural Fire District. Applicant shall obtain written verification from the District that the required water supply and any other conditions required of the Belgrade Rural Fire District have been provided. Inspections shall be scheduled, with a 48-hour notice, during construction and completion. 21. Applicant shall provide a final plat to the Belgrade Rural Fire District prior to final plat approval. 22. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Ms. Madgic pointed out that if the variance is granted then condition #13 should be stricken. One person testified at the Planning Board hearing expressing concern with lack of ground water in the area, and safety for Penwell Bridge Road. One letter was received from an adjacent property owner in support of the request. George Durkin on behalf of the Gallatin County Road and Bridge Department stated that the Road Department was not in support of the variance. Mr. Durkin commented that Penwell Bridge Road currently has over 333 trips per day, adding that it was quite obvious if this split were approved they would go out Penwell Bridge Road to access Springhill Road. He stated that the primary access should be paved from the intersection of Springhill Road, east to Hamm Road. Mark Fasting of Gaston Engineering, on behalf of Jim and Marcia Jarrett spoke regarding the variance request, noting that it was his consensus that the traffic generated by this subdivision would go north however he was really unsure which way they would go. They did not feel there would be any affects on health, safety and welfare. Further discussion took place with regards to the proposed cul-de-sac. Public comment: Betty Biggs, representing the Biggs family partnership, an adjacent property owner testified that she had no problem with this subdivision however she was concerned for the variance regarding the section of paving on Penwell Bridge Road. She was in agreement with having that portion paved because of prior maintenance problems such as ground water and frost boils. She felt Hamm Road was sufficient. Ms. Biggs expressed concern to the Commission with regard to any subdivision approval in the area of the paved portion of East Baseline Road on towards the Belgrade Airport, noting several wells that have been going dry. Her point was to stress the importance of being very attentive to what is being done to the aquifer with increased development in the area. She also noted the area north of this proposed subdivision is wetlands that drain into Ross Creek 24 hours a day from a perforated drain field. In response to Ms. Biggs testimony, Mr. Fasting clarified that the property to the north was not their project and it was an independent parcel, which did not affect this project. Mr. Durkin was asked what kinds of improvements were anticipated with regard to condition #13. Mr. Durkin responded that the bridge would have to be widened. Further discussion took place with regards to what is called malfunction junction, where Penwell Bridge Road and Springhill Road meet. Commissioner Murdock was generally in agreement with the 4-lot minor subdivision and most of the conditions. He added that it was infill, pointing out that Ross Creek is not a real subdivision because it never went through review and approval. While he had great sympathy for those who expressed concerns about paving, he noted that was why they have road impact fees. He agreed with the Planning Boards problem with the fire concerns. He was not in favor of requiring fill points for every single lot and/or sprinkler. He believed it was overkill, adding that fire impact fees over time should be used for fill points, etc. He was not in favor of the language in condition #20, after the first sentence, noting it should be deleted. Commissioner Murdock was not in support of the variance for reasons stated. Commissioner Mitchell had no problem with the conditions as written. She agreed with paving Penwell Bridge Road because of the increased ADT's, and was not in support of the variance. Commissioner Vincent concurred with Commissioner Mitchell. **Commissioner Mitchell moved to deny the proposed variance regarding the paving of Penwell Bridge Road, Section 7.F.3. Seconded by Commissioner Vincent. Commissioner Mitchell noted previous reasons as stated. Commissioners Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion carried. Commissioner Mitchell moved to approve the request for preliminary plat of Tract 41 and 42, of the Ross Creek Major Subdivision with all the conditions, as written 1 through 22, noting the conditions would help this plat meet the requirements of the Montana Subdivision and Platting Act, Gallatin County Subdivision Regulations, and the Gallatin County Plan. Seconded by Commissioner Vincent. Commissioners Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion carried.**

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There were no pending resolutions. There being no further business the meeting was adjourned at 10:09 A.M.

The meeting was called to order by Chairman John Vincent at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners and Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

FEBRUARY 10, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, and Mitchell, Treasurer Anna Rosenberry, and guests Dennis Carlson, Tom Baker and Jim Harris, court appointed receivers for Sunset Memorial Gardens Cemetery, and Commission Assistant Glenda Howze. The Commissioners continued their discussions regarding a request from the court appointed receivers for the Sunset Memorial Gardens cemetery tax issues. Mr. Typolt of the Department of Revenue (DOR) is unable at this time to predict what the future tax assessment will be but is trying to approach a tax fee status on the cemetery. Ms. Rosenberry sent a memo to the Commission and receivers noted that there is nothing in statute that would allow the Commissioners the authority to cancel delinquent real estate taxes. She also noted that Mr. Typolt is not recommending retroactive adjustment to prior year tax bills for this situation due to lack of timely appeals of the Parks owner's to the DOR. At this point some of the taxes owed have been paid, but more needs to be paid on the commitment. The taxes have been reduced by 28.7% for the coming year due to erroneous classification of the tax assessment. It was suggested that the receivers should pay the back taxes and hope for a refund. Mr. Carlson asked if there were another way as currently the taxes serve as a loan against the property and they can't clear the title without first paying the taxes which could be assumed with the purchase of the property. Ms. Rosenberry noted that potentially, according to 15-16-603 District Court can order that the taxes be cancelled. The Commission asked that Attorney Holly Brown, Ms. Rosenberry and delinquent tax collector Arletta Derleth work together to come up with a reasonable compromised solution.

The Commissioners considered approval of claims listed on voucher list dated February 5, 2003, including check number 8017516, totaling \$129,373.80. Commissioner Mitchell made a motion to approve said claim. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a request from Baxter Meadows Development for the privilege to charge tipping fees at the Gallatin County Landfill at Logan. Commissioner Murdock made a motion to deny said request from Baxter Meadows Development, based on the recommendation of Finance Office Ed Blackman. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed the formation of the Solid Waste Management District. Manhattan and Three Forks have indicated their desire to join. A mailing needs to go out to residents and Grants Administrator Larry Watson suggests that Election Administrator Shelley Vance should do it. GIS Coordinator Allen Armstrong has said that it will take him approximately one-half day to compile the mailing list by tax code, but will need written confirmation of the Bozeman/Belgrade city limits. The mailing can be done under bulk permit. Commissioner Murdock made a motion to request Election Administrator Shelley Vance to proceed with the mailing to those who fall within the Solid Waste District per the resolution, offering the assistance of GIS, Finance, and Grants in completing the task; as advised by Chief Deputy County Attorney Chris Gray, Grants Administrator Larry Watson, and Finance Officer Ed Blackman. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Discussion took place regarding annexations into the district, a request for proposals to run the landfill, and operation issues. Commissioner Murdock made a motion to direct the Refuse District Team to draft an RFP document in order to allow for a smooth transition for operation of the landfill. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to move forward with advertising for appointments to the board to make decisions for the district. Commissioners Murdock seconded the motion. All voted aye. Motion carried unanimously. Membership and specifics regarding the governing board will be determined at another meeting.

The Commissioners discussed moving Open Lands Board Coordinator from the Fairgrounds to the office between Grants and County Attorney on the 3rd Floor of the Courthouse. Commissioner Mitchell made a motion to move Mr. Harris to the Courthouse accordingly, also to direct Facilities Director Bob Isdahl and ITS Director Ed Kawa to take care of the necessary steps to facilitate this move. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners continued discussion regarding the For the Record (FTR) system for recording of minutes. This system would work with the new sound system being installed and the FTR has many levels to accommodate many needs of the County. There are a couple of options for speakers, one is more costly but will produce much better quality sound and recordings. Commissioner Murdock made a motion to commit monies to pay for the SLS920 sound system speakers at the cost of \$1,590 each, total \$6360.00. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. All voted aye. Motion carried unanimously.

FEBRUARY 11, 2003

- The Commissioners conducted regular County business.

FEBRUARY 12, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, County Attorney Marty Lambert, Finance Officer Ed Blackman, Commission Assistant Glenda Howze, and Guests Lonny Walker, Bill Fairhurst, and Nick Gevock. The Commissioners discussed the Four Corners Advisory Council and the water and sewer district. Mr. Walker stated that the council needs to know if they have support from the Commission or not. Mr. Lambert stated that it is okay for the council to receive staff assistance on all items other than water and sewer district matters. Commissioner Mitchell stated that the County has provided assistance, but the group needs to form an entity and stand on their own if they pursue incorporation. She also noted that the County will not pay for attorney fees for this group. Mr. Walker stated that they are working towards putting a question of incorporation out to the people, determine whether or not they will incorporate, and move on to something else if not. Commissioner Mitchell stated that the group will probably need the assistance of Attorney Mona Jamison, but she will not be paid through County funds. The Commissioners instructed Mr. Walker to ask for staff assistance for all items other than water and sewer matters, if he follows the format laid out, noting that they will soon need to move on their own especially for incorporation.

The Commissioners discussed a resolution for establishment of the Pogreba Field Joint Airport Zoning Board. Establishment of this district will help with safety issues around the airport. Chief Deputy County Attorney Chris Gray has set forth a road map to follow in establishing the district and advertising for board members to serve.

The Commissioners discussed Phase III and IV construction remodel and the shortfall that the County is experiencing. Mr. Blackman suggested eliminating approximately \$40,000 in expenses, and take an additional \$34,180 from contracted services and the general fund to make up the \$74,180 shortfall. Commissioner Murdock made a motion to approve the changes to the Phase III, IV budget in order to fund the \$74,180 budget, per the recommendation of Finance Officer Ed Blackman. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a letter from Jerry Williams regarding participation in an RID/SID with Baxter Meadows for the paving of roads in the regional park area. Mr. Gray recommended that the Commissioners abide by the contract as signed and the memorandum of understanding that states that the County will aide him in procuring any federal or state funding (grants) possible to complete the work on the road, but that no further county contribution would be made. Commissioner Murdock made a motion to deny Mr. Williams request as it is contrary to the agreement signed between the County and Baxter Meadows Development, L.P. Commissioner Mitchell seconded the motion, referring to the addendum to agreement to sell and purchase language. Commissioner Vincent stated in discussion that the motion should be amended to include that the County will assist in looking for other funding sources. Motion was amended and the second amended also. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a time-only extension of contract #MT CDBG ED SBIR TA-02-01B with the Montana Department of Commerce for CDBG/SDBIR activities assistance. Commissioner Murdock made a motion to approve said contract for time-extension only. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of asset disposal requests from the Weed Department, Gallatin Rest Home, and the Treasurer's Office. Commissioner Mitchell made a motion to approve the asset disposal request from the Weed Department. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously. Commissioner Murdock made a motion to approve the asset disposal requests from the Gallatin Rest Home. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously. Commissioner Mitchell made a motion to approve the asset disposal request from the Treasurer's Office. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered a request from Auditor Jennifer Blossom regarding a pay increase for Accounting Clerk Mary Noack. Commissioner Murdock made a motion to approve said

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request, pending approval from Finance Officer Ed Blackman, and HR Director Randy Kuyath. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

FEBRUARY 13, 2003

- The Commissioners conducted regular County business.

FEBRUARY 14, 2003

- The Commissioners attended a special meeting for the purpose of approving claims. In attendance were Commissioners Vincent and Mitchell, Auditor Jennifer Blossom, Accounting Clerk Renee Huyser, and Commission Assistant Glenda Howze. Commissioner Mitchell made a motion to approve claims listed on voucher list dated February 11, 2003 including check numbers 8017755 – 8017761, totaling \$9,740.00. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated February 12, 2003, in the amount of \$149,795.94.
2. Consideration of Request for Common Boundary Relocation Exemption for Paul F. and Janet C. Cronin, Trustees and Bruce H. Johnson, located within the NE ¼ of Section 2, T2S, R3E, PMM, Gallatin County, Montana. (Lot 12 of South Fork Subdivision Phase I and Lot 14 of South Fork Subdivision Phase IV). Gallatin County Planner Victoria C. Drummond reported that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda. There was no public comment. **Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

One vacancy exists on the Gallatin County Mental Health Local Advisory Council for the Alcohol and Drug Services Representative position. This position has no expiration date, but the individual appointed will serve at the will of the Commission and Alcohol and Drug Services Board of Directors. Dave Douglas applied to serve as the Alcohol and Drug Services Representative, and the ADSGC recommended his appointment. There was no public comment. **Commissioner Murdock moved to appoint Dave Douglas. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** One vacancy exists on the Rae Fire Service Area board due to the resignation of Howard Ross. The appointee to this position will fill out the remainder of Mr. Ross's term, to expire on April 1, 2003. To date, one application has been received from Tom Kingma. There was no public comment. **Commissioner Mitchell moved to appoint Tom Kingma. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Murdock briefly summarized and reported on the public hearing and consideration of the second reading of a speed reduction ordinance for a portion of Cameron Bridge West Road. There was no public comment. **Commissioner Mitchell moved to approve the second reading of Ordinance #2003-02. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Mitchell briefly summarized and reported on the public hearing and consideration of the second reading of a speed reduction ordinance for Dawn Drive. There was no public comment. **Commissioner Murdock moved to approve Ordinance #2003-03. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Murdock briefly summarized and reported on the public hearing and consideration of the second reading of a speed reduction ordinance for Ousel Falls Road. There was no public comment. **Commissioner Mitchell moved to approve Ordinance #2003-04. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Mitchell briefly summarized and reported on the public hearing and consideration of the second reading of a speed reduction ordinance for Ross Creek Road. There was no public comment.

Commissioner Mitchell moved to approve Ordinance #2003-05. Seconded by Commissioner Murdock. None voting nay. Motion carried.

Gallatin County Planner Victoria Drummond reported on the public hearing and consideration of a request for a family transfer for Larry LaSalle, located in the SE ¼ of Section 7, T1S, R4E. Ms. Drummond briefly summarized the exemption, noting Tract 1 (2.914 acres) was to be transferred to Aaron LaSalle (claimants son) for his residence. The remainder, Tract 2 (139.879 acres) will be retained by the claimant however there is a pending negotiated sale to a developer for a five lot minor subdivision. Ms. Drummond stated that the proposed exemption does not appear to be an attempt to evade the Montana Subdivision and Platting Act. Lawrence LaSalle was sworn in and testified under oath answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Mr. LaSalle testified there was a written agreement and his intent was to sell the remainder tract, which was pending the outcome of this exemption request. There was no public comment. Ms. Drummond explained that the Planning Department has seen tentative plans and notified the developer that there would be subdivision review and sanitation requirements with further subdivision of the remainder parcel. In comparison to similar exemption requests, Commissioner Murdock was able to make a distinction with this request because Mr. LaSalle was up front. Therefore he believed it was a proper use of the exemption. Commissioner Mitchell agreed, noting that Tract 2 was the larger tract and was going to go through subdivision review. **Commissioner Murdock moved approval, finding it is a proper use of the family transfer exemption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Open Lands operating budget from revenue received from motor vehicle fees on special license plates. Open Lands Board Coordinator Mike Harris commented on the funds collected from the license plate revenues and the processes set forth regarding the budget and funding other projects. It was pointed out because they qualified for an advertisement, the Department of Justice placed the Open Space plate on the back of every renewal card statewide for the next 14 months. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-015. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the County Fair Fund for revenues and expenses associated with the Winterfest event. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-016. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a second amended resolution amending the Clarkston Fire Service Area #6 FY 2003 budget to reflect actual revenues. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-009A. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Manhattan Planning Consultant Ralph Johnson reported on the public hearing and consideration of a request for final plat approval for Roy and Kay White, located in the SE ¼ and SW ¼ of Section 34, T2N, R3E. The property is generally located at the northeast corner of the intersection of Nixon Gulch Road and Lund Lane. The proposed removal of the Agricultural Covenant on Lot B1, Minor Subdivision No. 138-A and preliminary plat approval for revisions to the existing Minor Subdivision No. 138-A, Lot B1 was granted on November 12, 2002. Mr. Johnson noted that the Gallatin County Road and Bridge Department reviewed the subdivision and gave their written approval in response to concerns expressed at the preliminary plat hearing regarding roads adjacent to the existing plat. Based on the information submitted, Mr. Johnson stated that it appears the conditions for final plat approval have been met. There was no public comment. **Commissioner Mitchell moved to approve final plat for the White application, finding it has met all of the conditions and requirements set forth in preliminary plat therefore, meeting the state subdivision regulations, County Subdivision Regulations, and all of the Master Plans and the requirements of the Manhattan Planning Board. Seconded by Commissioner Murdock. Commissioner Murdock commented on the differences in fire department requirements. None voting nay. Motion carried.**

Manhattan Planning Consultant Ralph Johnson reported on the public hearing and consideration of a request for final plat approval for Burnt Road Minor Subdivision, located in the N ½ of Section 18, T1N, R4E. The property is generally located northwest of Belgrade on the south side of Burnt Road and is within the Manhattan Planning District. Preliminary plat approval was granted on February 12, 2002. Mr. Johnson recommended final plat approval, noting that the conditions for final plat have been reviewed and the applicant has complied with the conditions including payment of fire and road impact fees. There was no public comment. Commissioner Murdock commented on condition #11, requiring automatic fire sprinkler systems, noting that he was mistaken a week ago when he thought a fill point option was required for every lot. Assistant Chief Brian Connelley of Belgrade Rural Fire clarified the requirement options allowed for fire protection. He pointed out that they had less than 5 percent compliance with sprinkler systems actually being installed and they had no enforcement according to the County Attorney. **Finding the applicant has met the terms of preliminary plat approval as reported by staff, Commissioner Murdock moved to approve final plat approval. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on the consideration of a pending resolution regarding the decision concerning a petition to abandon a portion of an unnamed road south of Lot 13 in Sourdough Hills Subdivision. Ms. Vance summarized the processes leading to this abandonment, noting that on the advice of Deputy County Attorney Kate Dinwiddie and Chief Civil Deputy County Attorney Chris Gray the land will not be allocated and the action of abandonment was sufficient. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-017, for all the reasons spelled out in the resolution. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

There being no further business the meeting was adjourned at 9:58 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

THURSDAY THE 20th DAY OF FEBRUARY 2003

The special meeting was called to order by Chairman John Vincent at 5:35 P.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board, Dawn Chretien.

Chairman Vincent announced this meeting is for the purpose to adopt a Resolution of Intention by the Gallatin County Commissioners for Adoption of the Gallatin County Growth Policy. He introduced Jennifer Madgic, Gallatin County Planning Director.

Planning Director Jennifer Madgic reported on changes made to the draft Growth Policy document after receiving written and public comments from the December 19, 2002, public meeting. In the draft document, changes, deletions, and additions are shown using strike-out, bolded, or underlined. The following changes were reviewed: An introduction was added; page 1., number 5. and 8.; Section 3.1 Water: Protect Water Quality; 3.4 Air Quality: Protect Air Quality; 3.16 Health and Safety; 3.17 Agriculture; Chapter 10, Land Use Diagram, clarification the Growth Policy Land Use Diagram is not a zoning map; 3 bullets were added regarding the use of the Growth Policy according to MCA 76-1-605; and a bullet regarding MCA 76-1-060, "When a growth policy has been approved, the subdivision regulations adopted pursuant to...must be made in accordance with the growth policy."; The other changes were general text changes that were non-substantive. Notice of the public hearing was published in the High Country Independent Press on January 30, February 6th and 13th, 2003, and in the Bozeman Daily Chronicle on February 2nd and 9th, 2003. Eighteen letters were received: Marvin Beatty (12/23/02); Dale Beland (two letters 1/8/03, 2/20/03); Celia Bertoia (12/20/02); William Comer (1/6/03); Bische Gibson (12/16/02); Noreen Breeding (12/23/02); Mark Evans, Executive Director, Southwest Montana Building Association (1/10/03); Mark Haggerty, Greater Yellowstone Coalition (2/14/03); Diane Hargraves (1/15/03); Steve Kelly (12/31/02); Jim Pepper (1/15/03); Richardson (12/18/02); Joan Ryshavy (1/11/03); Vernon Westlake (1/10/03); Steve White (1/8/03); Kerry White (2/5/03); Lanette Windemaker (2/18/03).

County Attorney Marty Lambert advised the Commission on two issues. 1.) The draft document has not had legal review by his office. There are legal questions that need to be answered before final adoption of the Growth Policy. During his brief review, he found reasons to move with caution with the adoption of the Growth Policy. 2.) The Attorney General Opinion regarding the growth policy and the effect the growth policy will have on counties and zoning statutes in which they have not adopted a growth policy after October 1, 2001. The criteria will have to be reviewed closely to make sure it meets the requirements of 76-1-601. He agrees with Bill Madden's letter, dated 1/16/02, regarding his disagreement of the use of the Growth Policy as a stand alone, regulatory document, in reference to Chapter 3, with the exception of minor subdivision review that is exempt from Section 76-3-608(3)(a) of the Subdivision Act. He committed to getting the draft document review done in the next couple of weeks.

Clarification was made on which draft the public received at Kinko's, the internet, and the draft copies made available to the public to review for the meeting after some confusion was stated by the Commission.

Planning Director Jennifer Madgic responded the version was the one given to the Commission during a work session two weeks ago.

Chairman John Vincent asked members of the public if they had the same draft as the Commission and were able to follow along.

Members of the public acknowledged they had the same draft and were comfortable with proceeding with the meeting.

Public Testimony:

Mark Haggerty, Greater Yellowstone Coalition, 308 S. 5th, Bozeman, gave written and oral testimony on December 19, 2002, and urged the Commission to adopt the Growth Policy as soon as possible, because it will be a visionary document to guide the future direction of growth.

Ray White, 4224 Blackwood Road, Bozeman, (agricultural producer) remarked that places in the document appear more than suggestive almost mandatory. It should be a conceptual guide not a regulatory document. It will be difficult to use the Growth Policy because of the marketplace and availability of land. Other suggestions stated: 3.1 Policy 3., add water user facilities to mitigate adverse impacts; 3.3 Policy 2., delete bullet #2, documentation of the use of "best management practices for livestock" should be in the development section; 3.4 Policy 3., dust control plans of unpaved roads should be the County's responsibility; 3.17 Agriculture: agriculture language is in conflict with state statutes. He suggested deleting Goals I & II and adding language for the "control of predators" to be supportive of agriculture.

Kathy Gallagher 8965 Sandy Creek Lane, Bozeman (hydrologist), asked when the policies and plans referred to in 3.1, Water, Goal I: Protect Water Quality, will be adopted? She suggested deleting "adopt" and leave "support policies and/or plans that protect rivers, streams and riparian areas" and add "ground water" to the statement. She suggested moving 3.1.7, regarding adjacent water quantity, to Section 3.2. Water.

Dick Clotfelter, 465 Greenridge Dr., Bozeman (Bridger Canyon Homeowners' Association) commented that the Growth Policy is an evolving instrument that sets the tone. He urged adoption soon before the County suffers even more by allowing the hopscotch and piecemeal developments.

Steve White, 3800 Blackwood Rd., Bozeman (family long-time agricultural producers) stated concerns that the family farm will no longer be able to produce because of surrounding development and restrictions such as conservation easements placed on the surrounding lands. He wants to protect the farm for his children. The County is losing taxable land purchasing conservation easements and buying development rights that there will not be many development rights left. Suggestions: Section 3.2, Water, Section 3.4, Goal 1, Protect Air Quality, both policies are too broad. Section 3.17 Agriculture Section, duplication of Fresno County California's document.

Jim Pepper, Planning Consultant, 1322 S. Rouse, Bozeman, responded to Steve White's statement regarding Section 3.17 Agriculture, that our plan duplicates Fresno County's plan. He submitted the materials taken from Fresno County's plan for consideration because our County should be able to learn from those that have experienced unplanned growth and destruction of farmland without needlessly repeating the same mistakes. Comments: 1.) suggested that the 6-month review of the Growth Policy be memorialized by a resolution by the County Commission. 2.) Land Use Diagram is an improvement, but suggested changes in

the use of colors on the map, yellow for residential and red for commercial, use a dash line around city jurisdictions (Belgrade, Manhattan, Bozeman); show five-year growth projection for each community; conservation areas are too vague and not a good classification; conservation areas are a wise use of land that can occur across the County and policies should be written specific to them; suggest the Land Use Diagram show zoning districts with land use in areas; include a policy to 3.6 Open Space that the County supports and encourages a common separator between the urban area around communities, incorporated areas, and cities to maintain some separation between towns; 3.17 Agriculture Goal I, Policy 2. bullet #1, unless specifically stated, development buffer comes out of farmland, suggests that development provide buffer from the development side of the fence; add a third goal under Agriculture to retain service infrastructure to support agriculture; urged to create an economic development set of policies; page 27., Planning Hierarchy: suggested 4th vertical bar, Zoning, should be "201 Zoning District" to implement mechanism for development.

R. Dale Beland, Planning Consultant, 2023 Stadium Dr., Bozeman, submitted comments on previous drafts and the current version for consideration. He thanked the Commission for working with the public to achieve a consensus for support. Page 33, diagram in Chapter 5, subdivision application process, statute is not correct; suggestion to draft a checklist on how the draft complies with the state regulations to make sure all the points are covered; carefully use definitions and use in context to where they are made, such as wildlife habitat, preserve open space, important habitat, and wildlife friendly fencing; under Open Space 3.6, Goal I, Policy 3., Conserve Open Space, "require development to comply with plans for parks, recreation, open space and/or trails" that the adopted plan is not part of the policy; 3.13, Policy 1., "require development to comply with comprehensive county transportation plan". Concerned there is no County adopted plan to follow to know how to respond to 3.13, Policy 3., "the coordinated circulation pattern" requirement for the development to provide; Section 3.14 Local Services, Policy 1. and 6., needs clarification to state what the fair share is the developer will have to pay; 4.3 Neighborhood Plan, neighborhood areas should be reduced from 640 acres to 20 acres to effect change.

Melissa Frost, Greater Yellowstone Coalition, supports the draft Growth Policy. She asked it be legally defensible and urged it be implemented in a timely manner because of the Interim Bozeman Pass Zoning District.

Executive Director Mark Evans, Southwest Montana Building Association, submitted comments on the draft. He suggested Ann Adair, Senior Economist, Center for Applied Economic Research, adding her Economic Research Study of December 2002, to the document to show the economic benefits. He also suggested adding a fiscal impact analysis to give the public the big picture of the economics involved. He offered setting up a work session with her to present and defend her research.

Jennifer Reed, 1778 Jackson Creek, Bozeman Pass resident, urged the Commission to adopt the Growth Policy soon because of the Interim Bozeman Pass Zoning District.

Kerry White, 4000 Blackwood Road, Bozeman (family long-time agricultural producers), does not support conservation easements; conservation easements do not promote agriculture; conservation easement transactions held in perpetuity are against the constitution; the document is trying to regulate agriculture. It should be exempt from regulation; the document needs to support services in the agricultural community to promote agriculture; the entire document is too regulatory and should be a vision document for the County that should be citizen driven.

Vernon Westlake, 3186 Love Lane, Bozeman, requested the Commission wait on passing the resolution of intention until the agriculture committee meets to review and give their input to the agricultural section.

Tony Kolnik, 81481 Gallatin Road, Gallatin Gateway, submitted a letter with his concerns. He suggested adding a requirement that developers provide evidence from the Department of Natural Resources and Conservation (DNRC) to 3.1, Water, Goal I, Protect Water Quality Policy 2.

Susan Swimley, Attorney, 1800 W. Koch, Bozeman, stated the next step is to amend the subdivision regulations in accordance with the Growth Policy. Goal 3.13, Mobility and Circulation, is arbitrary without an adopted County transportation plan in place; under Incentives: affordable housing, cluster development, etc. to comply with Growth Policy: cluster development, affordable housing are included everywhere, but not directed anywhere. She asked how they would accomplish getting those exchanges; Effect on Wildlife Habitat: there is no definition for critical habitat; definition of cluster development needs clarifying; she recognizes the economic incentives, but the reality of requiring the minimum of 640 acres to form a zoning district is not likely. She is working on coordinating a legal review of the document.

Board Discussion:

Chairman John Vincent presented a timeline for adoption of the Growth Policy. Previously, County Attorney Marty Lambert agreed that his office could do a complete legal review in two weeks. After his review, on March 14th, 2003, Chairman Vincent proposed the revised document will be made available to the public with the intent to adopt the Growth Policy by April 1st. The Commission would be committed to revisiting the adopted Growth Policy after six months on October 1, 2003. Any legislation affecting the Growth Policy would be in place by then.

Planning Director Jennifer Madgic agreed she could incorporate changes to the document and get a new copy for the public by March 14th if she gets the changes from the County Attorney. The Agricultural Committee is meeting February 28th, in time for her to add any changes to the agriculture section.

Commissioner Murdock stated his concern the Commission needs to adopt the Growth Policy soon. There is a compelling broad public interest in the Coal Bed Methane Zoning District and pending subdivisions. He understands it needs legal review. He would like to see the Growth Policy adopted in two weeks.

Commissioner Mitchell agreed the document is a lot closer to being completed than it has been in previous drafts. She stated most of the changes needed should be easy to make with due diligence. She would like to see the agricultural community writing the section on agriculture. She agreed on the April 1st adoption.

Commissioner Vincent asked Commissioners' Mitchell and Murdock if their review of the Growth Policy in 6 months should be memorialized in the resolution or included in the document as suggested by Mr. Pepper.

Commissioner Mitchell responded the draft will be reviewed every five years. She would like to see it reviewed every year.

Commissioner Murdock and Mitchell agreed as a gesture of their good faith, the Commission will either amend the Growth Policy and add it to the document, or they will add a statement to the resolution during the adoption process.

Commissioner Murdock added that the Commission can take a step further, to set a committee up of interested citizens to keep meeting on the Growth Policy for the next six months, in order to have a process in place for input of the Growth Policy after adoption.

The Commission decided to discuss the "six month review after adoption of the Growth Policy" further during their next Growth Policy work session.

Kerry White asked if the interlocal agreement between the City and County referenced in the draft Growth Policy will meet state statute.

Chairman John Vincent responded that the legal review will look at every component of the Growth Policy to make it legally defensible.

There being no further business the meeting was adjourned at 7:40 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 25th DAY OF FEBRUARY 2003

The meeting was called to order by Chairman John Vincent at 9:02 A.M., at the City Commission Meeting Room. Also present were County Commissioners and Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

FEBRUARY 17, 2003

- The Commission Office was closed in observance of President's Day.

FEBRUARY 18, 2003

- The Commissioners conducted regular County business.

FEBRUARY 19, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Treasurer Anna Rosenberry, Commission Assistant Glenda Howze, and guest Airport Director Ted Mathis. The Commission discussed a request from Mr. Mathis and the airport board to have funds disbursed directly to them rather than through the County Treasurer's Office. Ms. Rosenberry stated that she has no problem with this as it has been difficult to keep track of the money when it has more filters. Mr. Denning, external auditor, has questioned why the funds have been filtered this way as it distorts the financial and investment statements of the County. There are no outstanding debts that would necessitate continued disbursement through the Treasurer's Office. Commissioner Murdock made a motion to direct the Gallatin Field Airport Board to investigate pertinent details regarding amending of Resolution 1553 to allow them to collect and expend their funds without going through the County; pending verification of agreement of the board through their minutes, approval from the airport's external auditor and County's external auditor, and County Attorney review of the resolution. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

FEBRUARY 20-21, 2003

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated February 19, 2003, in the amount of \$120,443.27.
2. Approval of Contract(s): Memorandum of Understanding: Cascade, Flathead, Lewis & Clark, Missoula, Yellowstone, and Gallatin City-County – for Mutual Aid Provided by Operation Red Flag.
3. Approval of Applications for Cancellation of Taxes for Parcel Numbers: MMM5083, MMM3883, PPP17572, PPP10047; totaling \$274.82.
4. Consideration of a Request for a Mortgage Survey Exemption for Jay Eleanor Hankin, located in the NE ¼ of Section 21, T1N, R3E. (15520 Crowley Lane, Three Forks, MT). Gallatin County Planner Victoria C. Drummond stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Consideration of a Request for Release of the Letter of Credit for the Spanish Peaks Estates Subdivision, Phase 2A Improvements Agreement. The original letter of credit dated March 4, 2002, was issued to Gallatin County in the amount of \$63,331.50. Based on review of the Improvements Agreement, submitted request and approvals, Subdivision and Zoning Review Manager W. Randall Johnson recommends that the Commission approve the requested release of letter of credit.
6. Consideration of a Request for Common Boundary Relocation Exemption for Allen and Diane Schaff and Dominic and Lisa Martellaro, located in the NE ¼ of Section 5, T1S, R4E. (Thorpe Road). Belgrade City-County Planner Jason Karp stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent announced that board appointments to the Open Lands Board would be continued for one week and regular agenda Item #6, public hearing and consideration of a request for a variance for road impact fees for Milligan Minor Subdivision was continued for two weeks at the request of the Planning Director and the consent of the applicant.

Commissioner Murdock read the consent agenda. Commissioner Mitchell questioned if consent agenda Item #5 should be placed on the regular agenda. Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson explained this was a final release and there were no issues therefore that would be the only reason it would be placed on the regular agenda. **Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

One vacancy exists on the Gallatin City-County Board of Health due to the term expiration of Tim Ford. This position is a 3-year term and expires on January 6, 2006. Mr. Ford was notified and indicated a desire to be reappointed. To date, three additional applications have been received from Kenneth Spain, Anthony Kolnik, and Becky Robideaux. The Board of Health indicated a desire to have Mr. Ford continue serving, as he has only been a member since August 2002. He was appointed to serve out the remainder of Mark Cechovic's term. There was no public comment. **Commissioner Mitchell moved to reappoint Tim Ford for the full term, given the Board of Health's desire to have him continue serving. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Murdock briefly summarized and reported on the public hearing and consideration of the second reading of a speed reduction ordinance for a portion of Thorpe Road. There was no public comment. **Commissioner Mitchell moved to approve Ordinance #2003-06. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on the public hearing and consideration of a request for a family transfer exemption and common boundary relocation exemption for Gary and Joan Cook, located in the SE ¼ of Section 27, T2S, R5E; Tract 2; Tract 1 and Tract C-2. Ms. Drummond briefly summarized the proposal. Joan and Gary Cook were sworn in and testified under oath answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Finding this is a proper use of the exemption based on the information submitted and testimony received, Commissioner Murdock moved approval. Seconded by Commissioner Mitchell, adding that it also included a common boundary relocation. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman presented the FY 2003 Financial Trend Analysis and Financial Forecast. Mr. Blackman gave a brief overview of the plan, process and schedule. He pointed out some of the concerns and positive affects that State Legislature has on local governments and several issues currently being reviewed at the County level, including: Adult Detention Center, with bond election on hold; ACLU-possible law suit and methods to mitigate; County wide transportation plan; County Information Technology Policy and Plan; Facilities Master Plan; Relocation of Road/Bridge facilities; and County Growth Policy. The Finance Office goal in preparing this report is: To provide clear and concise Financial Tread Analysis and Five Year Financial Forecasts, that identifies the County's current and projected financial condition and purpose alternatives to address the County's problems. Hereafter referred to as the "Plan". He summarized the county tax revenue projections for the next five years, noting a significant projected short fall between revenues and expenses. Further discussion took place with regard to District Court Assumption and the Public Defender Program. Mr. Blackman noted that copies of the Plan would be available to the public and encouraged comment with regard to any amendments. The public hearing is scheduled for March 18, 2003.

Gallatin County Finance Officer Ed Blackman reported on the consideration of a resolution of intent to amend the Gallatin City-County Health Breast and Cervical Grant FY 2003 budget to include unanticipated grant revenues of \$2,617. There was no public comment. **Commissioner Murdock moved to approve Resolution of Intent #2003-018. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for C & H Engineering on behalf of Paul and Sharon Christensen for preliminary plat approval for the Belgrade Meadows Commercial Park Subdivision, described as the amended plat of Lot 5 of Minor Subdivision No. 307, situated in the NW ¼ of Section 13, T1S, R4E, P.M.M., Gallatin County, Montana. The request is for a seven-lot subdivision on 19.8 acres, located south of Belgrade on the east side of Jackrabbit Lane and Pollywog Lane. The Belgrade City-County Planning Board reviewed the preliminary plat and voted at their February 6, 2003, public hearing to recommend preliminary plat approval of the subdivision, subject to the conditions. Notice of this public hearing was sent to all adjoining property owners via certified mail and notice was published in the High Country Independent Press. One letter was received from Gilbert Carter expressing concerns with impacts to the road that is

to be linked with the Horseshoe Meadows Subdivision. The subdivision will rely on the commercial fill-site on Floss Flats or the residential subdivision in Horseshoe Meadows to provide water for fire protection. If the fill site in Horseshoe Meadows is used, some upgrades will be required to meet commercial standards. Proportionate reimbursement will be required for use of the fill site to provide water for fire protection as per subdivision regulations any fill site upgrades completed by the developer will be deducted from the reimbursement amount. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate and staff findings for considering the subdivision along with the suggested conditions. The Commission needs to make the following determination: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval:

1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates.
2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval.
4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat.
5. The developer shall record covenants on the final plat including the following provisions.
 - a. Requiring control of county declared noxious weeds.
 - b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
 - c. All fences bordering agricultural lands shall be maintained by the Property Owners in accordance with State Law.
 - d. The Property Owners Association shall be responsible for participating with Christensen Minor Subdivision (Minor Subdivision No. 307) property owners for the maintenance of the subdivision's roads.
 - e. A Property Owners Association shall be established.
 - f. Plans must be submitted to the State of Montana, Building Codes Division, and the Belgrade Rural Fire District for review and approval for all commercial structures
 - g. All structures must meet minimum fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief.
 - h. The Property Owners Association shall participate in the shared maintenance of the Belgrade Fire Department designated fill-site used for fire protection of the Belgrade Meadows Commercial Park.
 - i. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done.
 - j. Each lot owner adjacent to Horseshoe Meadows Subdivision (Lots 5D, 5E, 5F, 5G) shall install a landscape buffer along their south lot line during construction on said lots, to provide a visual buffer between the commercial use and the residential Horseshoe Meadows Subdivision.
 - k. All exterior lighting shall be directed downward so as not to effect neighboring residential properties.
 - l. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.
6. A copy of the covenants shall be submitted to the Belgrade Planning Office. A copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office. Both submittals shall be 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall approve the covenants and certificate prior to final plat approval.
7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations.
8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.
9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.
10. The developer must obtain an encroachment permits from the Montana Department of Transportation for the interior access road's intersection with Jackrabbit Lane.
11. Road names shall be approved by the GIS Office, and road name signs and STOP signs at all intersections as required by the Road Office shall be installed prior to final plat approval, or a bond covering the cost of the signs shall be deposited with the Road Office.
12. The Pollywog Lane shall be a sixty-foot right-of-way, dedicated to the public, and shall be constructed and paved to Gallatin County standards with a cul-de-sac or "T" type turnaround at its east end as shown on the

preliminary plat. 13. Alfalfa Road shall be a sixty-foot right-of-way, dedicated to the public, and shall be constructed and paved from Pollywog Lane to the south boundary of the subdivision as shown on the preliminary plat. 14. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification and a copy of the homeowners association by laws and covenants must be provided to the County Road Office in writing prior to final plat approval. 15. An NFPA compliant fill-site or other Fire Department approved water supply is required. If the developer uses the Floss Flats fill-site or the Horseshoe Meadows fill-site (as designated by the Belgrade Fire Department) to provide water for fire protection, the developer shall be required to pay a proportionate reimbursement of the total construction cost of the fill site to the Belgrade City-County Planning Office which will reimburse the entity responsible for maintaining the fill site. The cost of fill-site upgrades completed by the developer will be deducted from the proportionate reimbursement amount. 16. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. 17. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 18. A detailed signage and drainage plan shall be submitted to the County Road Office for approval prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. The applicant's representative Mark Chandler outlined specifics relative to the proposed subdivision, noting that the applicant's were in agreement with the conditions. Public comment: Kevin McNelis, President of the Horseshoe Meadows Subdivision Homeowners Association speaking on behalf of the homeowners expressed concerns with the safety of linking their subdivision road to this proposed commercial subdivision. In addition, they were concerned with dust; road maintenance; upgrades to their fire pond, if it is used; and the paving of their road should commercial trucks use it. In response, Mr. Chandler believed that Mr. McNelis's argument was weak in regards to traffic going through Horseshoe Meadows. Further discussion took place with regard to zoning in and around this area and the possibility of restricting certain types of businesses. Public comment was closed. Commissioner Murdock asked Assistant Fire Chief Brian Connelley of the Belgrade Rural Fire Department how he felt about a breakaway barrier or some other arrangement to mitigate traffic through Horseshoe Meadows and still address public safety concerns of fire. Mr. Connelley replied that gates and barriers were very expensive and maintenance intensive. He commented on other subdivisions with designed road features that were designed for traffic reduction and allowed for emergency vehicle access. Because this was a commercial subdivision, he noted that all plans have to go through building permit review with the Department of Labor and Industry and he believed that parking and turn around concerns would be addressed at that time. He noted that the Horseshoe Meadows fill site was the closest and although it was built to residential standard, it was his preference. He recommended upgrading the Horseshoe Meadows fill site because it was further to the Floss Flats fill site, which also has maintenance issues. In conclusion, his preference was to not have a physical boundary gate. In reviewing the covenants, Mr. Chandler noted no specific types of commercial uses that were to be restricted however he was in agreement to adding a covenant that would restrict large trucking firms. Because there was a site plan review process in the covenants, Mr. Karp recommended that they include the following covenant: "The site plan shall provide for adequate space to allow large trucks to turn around on each lot." Commissioner Murdock was comfortable with this proposal, noting that he was not going to get into concerns regarding the size of the lots and covenants, as he believed that was a zoning issue. However because there was no Belgrade Area Transportation Road Plan to give notice where roads will be connected, Commissioner Murdock noted that the Commission keeps doing so on a piecemeal basis by the Subdivision Regulations for public health and safety reasons. He was not vote in favor of this proposal without some alternative to protect the Horseshoe Meadows Subdivision concerns. Commissioner Vincent agreed however he was not in favor of a gate. Commissioner Murdock suggested the following language for **condition #13**: **"Alfalfa Road shall be a 60-foot right-of-way dedicated to the public and constructed to county gravel standards from Pollywog Lane to the south boundary. The developer shall install an impediment to through traffic on Alfalfa Road, to be approved by the Belgrade Rural Fire Department and the Horseshoe Meadows Homeowners Association."** Commissioner Vincent questioned George Durkin, on behalf of the Gallatin County Road and Bridge Department if they could on the basis of public safety prohibit truck traffic. Mr. Durkin did not have an answer at this time. He added that the Road Department would not support a gate because it would be an obstruction in the right-of-way and was against MCA as well as cause a problem with vandalism and snow plowing. Commissioner Murdock did not believe signage would go far enough. Commissioner Mitchell had no problem with the subdivision and had great empathy for the Horseshoe Meadows residents as they were

being surrounded by growth and she did not know if that could be solved. She pointed out that it appeared if the Horseshoe Meadows Subdivision roads remain gravel that is was not an inviting place for a shortcut, nor was it an easy place to turn around. Although she would like to see a covenant that restricted size she thought perhaps the size of the lot would reduce the types of businesses. She added that a secondary access was definitely necessary given the long narrowness of this subdivision for health and safety reasons. She was in support of the subdivision as is, and encouraged signage whether it be by ordinance or the Road Department. Commissioner Murdock reiterated that he would support the subdivision, believing that it met the requirements of 76-3-608 MCA, and the Belgrade Area Master Plan requirements, and all the conditions as written including the fill site language. However his only concern would be the suggested language change for condition #13, because as written it would not meet the safety and welfare of the Horseshoe Meadows Subdivision. In response to the suggested language for condition #13, Mr. Chandler recommended that it be approved by the County Road Department, not the Horseshoe Meadows Homeowners Association. Commissioner Murdock stated that he consciously did that because the Road Department would put up a sign that will not be enforced. Mr. Chandler believed that would cause a problem for the applicant, as the Horseshoe Meadows Homeowners Association could use that condition to keep them from getting final plat. Commissioner Murdock did not think that would happen, noting he would not favor them having veto power. The Commission decided to approve suggested changes one at a time. Further discussion took place with regards to the definition of impediment, noting it could be a number of different things. **Commissioner Murdock moved to amend the language on condition #13, as previously read into record. Seconded by Commissioner Vincent.** Commissioner Mitchell stated that she could not support the motion because impediment could be a nail strip, noting it could lead to major legal battles. Commissioner Vincent agreed although he recognized the motivation and the intent. **Commissioner Murdock voting aye. Commissioners Vincent and Mitchell voting nay. Motion denied.** **Commissioner Vincent moved to amend condition 5(j) as follows: Each lot owner adjacent to Horseshoe Meadows Subdivision (Lots 5D, 5E, 5F, 5G) shall install a bermed landscape buffer with coniferous trees and other plantings along their south lot line during construction on said lots, to provide a visual buffer between the commercial use and the residential Horseshoe Meadows Subdivision. Seconded by Commissioner Murdock,** commenting that this is usually done at a development permit phase or zoning and that it was awkward to do at Subdivision Review, adding that it would be difficult to enforce. Recognizing that the intent was admirable, Commissioner Mitchell stated that she was not going to support the motion because it did not specify how big the berm was to be and given the soils in this area it could prove to be a drainage problem. She was also concerned with enforcement. **Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.** **Commissioner Vincent moved to amend condition 5(k) as follows: All exterior lighting shall be installed with cutoffs and directed downward so as not to intrude on neighboring residential properties. Seconded by Commissioner Murdock,** noting his same comments as before regarding enforcement. Commissioner Mitchell pointed out that these types of restrictions are more to do with zoning and there is no countywide zoning. Furthermore she did not hear any testimony concerning these issues, adding that she could not support the motion. **Commissioners Murdock and Vincent voting aye. Commissioner Mitchell voting nay. Motion carried.** Further discussion took place with regards to a continuance until acceptable language for condition #13, could be agreed upon. Mr. Chandler suggested the following language: "Alfalfa Road shall be a 60-foot right-of-way dedicated to the public and be constructed to county gravel standards from Pollywog Lane to the south boundary. The developer shall install an impediment to through traffic on Alfalfa Road, to be reviewed by the Belgrade Rural Fire Department, the Horseshoe Meadows Homeowners Association, and the County Road Office and be approved by the County Commission." Rather than using the word "impediment", Commissioner Mitchell preferred using the following language: "something that discourages, reduces or impedes through traffic". The following language read by Mr. Karp was agreed to: "Alfalfa Road shall be a 60-foot right-of-way dedicated to the public and shall be constructed to Gallatin County gravel standards from Pollywog Lane to the south boundary of the subdivision as shown on the preliminary plat, including a method that discourages, reduces or impedes through traffic. It shall be reviewed by the Belgrade Fire Department, the Horseshoe Meadows Homeowners Association and the Gallatin County Road Department and be approved by the County Commission at/or prior to final plat approval. **Based on board discussion of through traffic, Commissioner Murdock moved to approve the subdivision finding that it comports with the Belgrade Area Master Plan, Subdivision Regulations, and the law and subject to all the conditions presented by staff: condition 5(j) and (k) as amended; condition #13, as read into the record by Mr. Karp, with the word "impediment": struck and the word "method" added. Seconded by Commissioner Mitchell, adding as previously noted she was concerned with the berms and light specifications that are not required by the Subdivision Regulations and are more of a zoning requirement. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the continuation of a public hearing and consideration of a request for Rocky Mountain Engineers P.L.L.C. on behalf of Gail Chemodureau Williams for preliminary plat approval of the Sourdough Creek Minor Subdivision, described as Tract A-1-A of Minor Subdivision No. 236C, located in the NE ¼ and NW ¼ of Section 31. T2S, R6E, P.M.M., Gallatin County, Montana. The property is generally located on the west side of Sourdough Road, between Brajenka Road and Cobble Creek Road at Streamside Lane. This proposal was before the Commission on January 7, 2003, and there were several questions about the proposed subdivision primarily on the topics of the trail easement, water quality and quantity, and groundwater depth. The Commission continued action so the applicant's representative could provide further information. Mr. O'Callaghan made note of a prior amendment to condition #5, adding the words "if required", at the end of the first sentence. He also made note of a memo from Deputy County Attorney Kate Dinwiddie regarding the trail. Mr. O'Callaghan did not suggest a change to condition #29, as based on the advice of Ms. Dinwiddie it appeared that the Commission may not have the legal authority to require the applicant to dedicate a trail easement. Ray Center on behalf of Rocky Mountain Engineering obtained a copy of the NRCS soils information, which he provided to Tim Roark, of the Gallatin County Health Department in response to information requested at the prior hearing. Based on the NRCS information, he pointed out the major soil types and noted there are sufficient sites on each lot for a drain field system. Attorney Susan Swimley the applicant's representative commented that she did not have Ms. Dinwiddie's memo. In summary, Ms. Swimley noted that the applicant was in agreement with all 30 conditions, with the exception of condition #25, (Sheriff mitigation fee); and they concurred with the modification to condition #5, placing the language "if required" at the end of the first sentence. In response to transferring all water rights appurtenant to the property which was addressed at the prior hearing, she suggested adding the following condition: "The subdivider shall transfer all water rights appurtenant to the subdivision to the homeowners association." She also mentioned prior discussion with regard to the limitation on livestock, and noted that their covenants included a provision that allowed no more than 4 large animals, adding that they would be happy to modify it. Ms. Swimley addressed the design and clustering questions in her letter dated February 20, 2003. In conclusion, she added that this subdivision meets all the zoning requirements and that they were requesting the Commission to strike condition #29, or modify it to be consistent with the language submitted in her letter, dated January 3, 2003. Mr. O'Callaghan clarified that the letter was dated January 6, 2003. Public comment was closed. Commissioner Murdock reiterated that he did not have a problem with the subdivision as submitted by the developer. He was in agreement with the suggested changes, with the one exception being the trail option. After carefully reading Ms. Swimley's letter dated February 20, 2003, and the County Attorney's letter he believed the Commission had to be proceed carefully. He was comfortable if it was not arbitrary or capricious, and based on conditions reasonably imposed in the public health, safety, and welfare. He agreed there were problems with the Growth Policy and the County Trails Plan however that was beside the point noting they have a 30 year history of community wide trails efforts where this has long been identified either formally or informally as an important trail corridor. He believed this was an overriding community benefit. He quoted Section 1. General Provisions of the Gallatin County Subdivision Regulations, noting the purpose of the regulations was to promote public health, safety, and welfare to prevent the overcrowding of land. He stated that the concept of conditions allowing trails is quite clear even absent a Trails Plan or Growth Policy. He was comfortable thinking they have the legal ability to impose reasonable conditions of approval that are in the public health, safety, and welfare realm. He believed that condition #29, as written was reasonable, sound, and consistent with the past therefore he was going to vote to keep condition #29, as written. Commissioner Mitchell agreed with Commissioner Murdock. Although it would be nice to provide recreationists a route along Sourdough, she commented that there has to be a way to link the trail up to the road and back if the link of the trail continues along the creek. She was not sure the Chemodureau's would be willing to provide trail easements east and west on both ends of the property. In her mind the trail was up in the air. She believed there should be some type of continuity and suggested more cooperation by the applicant. She was in agreement to the other suggested changes. Commissioner Vincent noted those changes would include: condition #5-inserting "if required", at the end of the first sentence; condition #25-strike; and the addition of condition #31-The subdivider shall transfer all water rights appurtenant to the subdivision to the homeowners association. Based on the previous comments, Ms. Swimley pointed out that the Non-Regulatory County Trails Plan has a map attached that was recommended by the Advisory Committee and adopted as part of the County Growth Policy which now does not meet the requirements of the County Growth Policy. She identified proposed boulevard trails, existing trails, and a proposed trail corridor while pointing out that all trail corridors in this area are on the west side of Sourdough Creek. She stated if they were to get an alignment on Sourdough Creek that it makes more sense to require it on the west side of Sourdough Creek in the Chemodureau's property on other side of the river instead of requiring it on the east side. Ms. Swimley stated if the Commission was going to require it on the west side that they would request it be made a specific condition. She noted that it was the preference of Gary Vodehnal of Gallatin Valley Land Trust that any trail easement go along the creek on the west side. She also added that they were not waiving any of their rights. **Making a determination that the application compiles with the 1990 Bozeman Area Master Plan Update Neighborhood Division to the Gallatin County Plan, the**

application meets the requirements of the law, and it complies with conditions suggested and with the Gallatin County Subdivision Regulations, Commissioner Murdock moved to approve it subject to the conditions as amended by staff on Feb. 19, 2003, adding the words to condition #5, "if required", after the word DNRC; strike condition #25; leave condition #29 as is; and add new condition #31 to read: "The subdivider shall transfer all water rights appurtenant to the subdivision to the homeowners association." Seconded by Commissioner Mitchell, adding that she could not support the motion with the inclusion of condition #29. She understood Ms. Swimley's point, although she did not believe they could legally require them to put a trail on property that is not on the application. Her preference would be for the applicant to offer it as a positive trade off in being part of the community and making the trail system work. Commissioner Vincent expressed concern regarding the letter from the Sheriff indicating they cannot assure adequate police protection for new subdivisions. Although he was not applying that standard in this case because of its proximity to the City of Bozeman for mutual aid, it raised a question in his mind. He questioned whether the county would be liable if they approved this subdivision knowing they have this letter and something bad happened on down the line. He stated his support, in regard to the trail and included an interpretation of 76-3-608, of the criteria for local government for review in the State Statute and referred to the trail as a reasonable application of the public health. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.

There were no pending resolutions. There being no further business the meeting was adjourned at 12:04 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 4TH DAY OF MARCH 2003

The meeting was called to order by Chairman John Vincent at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock and, Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

FEBRUARY 24, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Planning Director Jennifer Madgic, Grants Administrator Larry Watson, and Commission Assistant Glenda Howze. The Commissioners considered approval of a contract with Marti Elder LLC and New Horizon Technologies, Inc., pursuant to #MT CDBG ED SBIR TA-02-01B with the Montana Department of Commerce for CDBG/SBIR technical assistance activities. Commissioner Murdock made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.
- The Commissioners discussed a request from the Open Lands Board to begin the process for sale of additional bonds for the Open Space Bond fund. The Commissioners asked that the board discuss this request with Treasurer Anna Rosenberry prior to Commission approval.

FEBRUARY 25, 2003

- The Commissioners conducted regular County business.

FEBRUARY 26, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, County Attorney Marty Lambert, Human Resources Director Randy Kuyath, Facilities Director Bob Isdahl, Grants Administrator Larry Watson, Commission Assistant Glenda Howze, and Nick Gevock, Bozeman Daily Chronicle. The Commissioners considered approval of a contract with Prugh and Lenon Architects for a Statement of Work for time and materials not to exceed \$10,000, with said Scope of Work to address points one and two of the ACLU letter. Discussion took place regarding satisfying ACLU concerns. Mr. Prugh assured the County Attorney that he has worked with them before and understands their concerns and is able to

work with them again. Commissioner Murdock made a motion to approve the statement of work not to exceed \$10,000 and the scope of work as described; as has been prepared by County Attorney Lambert, Grants Administrator Larry Watson, and Facilities Director Bob Isdahl and as has been recommended by the same. Commissioner Vincent seconded the motion. In discussion, it was noted that this statement of work does not address mental health or medical needs (other than the medical room infrastructure). Mr. Lambert noted that this is the first step towards a solution to rectify serious situations for the next few years in order to operate safely and securely. All voted aye. Motion carried unanimously with a vote of two to zero.

The Commissioners considered approval of a budget transfer request for Gallatin Local Water Quality District. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a grant application to the Montana Board of Crime Control for a School Resource Officer. This is a proposal to the Montana Board of Crime Control for a continuation of the Underage Drinking Program. The Sheriff's Office will contribute \$3,240 towards the indirect costs for this position. The application budgets \$81,000 for salary, overtime, administration costs, travel, cellular phone, and multi media matters. This is for 2 years in conjunction with the Alcohol and Drug Services of Gallatin County. Commissioner Murdock made a motion to approve said application. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

FEBRUARY 27-28, 2003

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated February 27, 2003, in the amount of \$711,239.97, reflecting the exclusion of check #8018214.
2. Request for Common Boundary Relocation Exemption for Norman L. & Ethie H. Brothwell/Brian L. & Deborah L. Elliott-Pearson, located in the NW ¼ and the SW ¼ of Section 24, T2S, R7E, P.M.M., Gallatin County, Montana. (Johnny Martinez Way, Tract 26 & 27 Smoky Hollow). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Common Boundary Relocation Exemption for Connelly-Dawson, LLC, described as Tract 2 and Tract 3 of COS 999 located within the NW ¼ of Section 33, T2S, R7E, P.M.M., Gallatin County, Montana. Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda, noting a change to the claims as indicated above. There was no public comment. **Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Commissioner Vincent announced that regular agenda Item #8, regarding Bear Canyon Road was listed incorrectly on the agenda. Although public comment would be allowed, it was not a public hearing it was a public meeting. This was an opportunity for the Commission to listen to any concerns regarding the road, which would then be taken under advisement. There would be no resolution or ordinance for consideration.

Four vacancies exist on the Open Lands Board due to the term expirations of Verna Lou Landis, Greg Leep, Devon Sorlie, and Terry Lonner. These positions are for two years and will expire on February 9, 2005. All four members were contacted and indicated that they are no longer interested in serving on the board. To date, eight additional applications have been received from Noreen Breeding, Ryan Trenka, Don Jackson, Vito Quatraro, Paul Rubright, Jeremiah Cashman, David Tyler, and Brian Weidenaar. There was no public comment. A consensus was noted among the Open Lands Board to recommend Jerry Cashman, David Tyler and Brian Weidenaar. Commissioner Murdock was in agreement to the recommendation and suggested leaving the fourth position open in anticipation of finding another long time ag member. **Commissioner Murdock moved to appoint Jerry Cashman, David Tyler and Brian Weidenaar. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Auditor Jennifer Blossom was not available to present receipt of the Auditor's Quarterly Report, ending December 31, 2002. The Commission agreed to defer action until Ms. Blossom was present.

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a family transfer exemption for Bradley G. and Jacalyn K. Wittwer, located in Section 27, T2S, R7E, P.M.M., Gallatin County, Montana. (465 Storrs Road, Bozeman, MT). Mr. Scott gave a brief summary of the exemption. Bradley G. and Jacalyn Wittwer were sworn in and testified under oath answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Finding this is the proper use of the exemption, based on the testimony and information received, Commissioner Murdock moved approval. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the consideration of a resolution of the Gallatin County Commission amending the Official Zoning Map for the Gallatin Canyon/Big Sky Zoning District. (Public hearing held February 13, 2003). There was no public testimony. **Commissioner Murdock moved to approve Resolution #2003-019. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Auditor Jennifer Blossom reported on receipt of the Auditor's Quarterly Report, ending December 31, 2002. Ms. Blossom stated that until she had a chance to look at other alternatives the quarterly report was prepared consistent with what former Auditor Joyce Schmidt had done in the past. She changed the statement at the bottom of the report that used to read: "The certification of the examination included all of the counties books", because it clearly did not include all the books. She noted some discrepancies in the ending totals on the last quarterly report submitted therefore she took them off until she could further investigate. When asked about which accounts should be of concern, Ms. Blossom explained because of some problems the Inmate Trust Account had been closed until they can reconcile those monies. A new account was opened, and to date the new system and new account appear to be going well. **The Commission acknowledged receipt of the report.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution to amend the Gallatin City-County Health Breast and Cervical Cancer Grant FY 2003 budget to include unanticipated grant revenues of \$2,617. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-020, finding this is a routine required amendment of taking money in that they did not know about earlier in the year. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Sam Butcher, Secretary of the Willow Creek Rural Fire District reported on the consideration of a resolution of intent to amend the Gallatin County FY 2003 final operating budget for receipt of unanticipated revenues of \$7,387 for the Willow Creek Rural Fire District. There was no public comment. **Commissioner Mitchell moved to approve Resolution of Intent #2003-021. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Mike Harris, Coordinator of the Open Lands Board reported on the public hearing and consideration of a resolution calling for the sale of bonds for Open Space General Obligation Bonds, Series 2003. Mr. Harris explained that they needed approval to sell more bonds from the \$10,000,000 Open Space funds set aside for the purchase of conservation easements or parklands. To date, they have expended approximately \$3.8 million. They have protected approximately 1,500 acres through conservation easements and 100 acres for the regional park. Commissioner Vincent noted that the date of publication has been changed on page B2 of the resolution, reading March 13 and 20, 2003. Financial Advisor

Bridget Ekstrom, representing DA Davidson stated that the bonds would be sold on March 26, 2003, in a sealed bid process at 1:30 P.M. Ms. Ekstrom pointed out that the timing of the county was impeccable as far as getting into the market place. The first series of bonds were issued in October 2001, with the lowest rate in 20 years at 4.35 percent. Currently they were looking at issuing bonds under 4 percent for the first time in the last 40 years. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-022. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Vincent announced that this was the public meeting on revising the motorized restrictions on a portion of Bear Canyon Road. The meeting was called in response to individuals requesting to air their concerns relating to this issue. Commissioner Vincent reiterated that the Commission would not be taking action today and would only listen and consider comments, noting that they would still accept phone calls and written comments after the meeting. They would then take the matter under advisement and at some point in the future decide how to proceed. Paul Gaffney started out the Power Point presentation by giving an overview and brief history of local, federal, and state entities taking steps to address problems of the Upper Bear Canyon Trailhead. He pointed out negative impacts and cause for further restriction on the use of motorized and recreational vehicles in this area noting: resource damage; water quality issues; soil erosion; fisheries; wildlife; recreation interests; protection of natural resources. Noting a dramatic increase in the use of motorized recreational use, he stressed that the problem still persists and has gotten worse. Mr. Gaffney noted a most resent attempt to mitigate impact was a resolution passed by the County Commission in May 2001, restricting motorized use of Bear Canyon Road past the trailhead, from April 15 – June 1; restricting motorized and non motorized vehicle use with a track width of no greater than 50” the rest of the year; and a verbal agreement to establish an MOU between the County, State and the Forest Service. In November 2002 the County Commission sent a letter to the Forest Service expressing concerns about whether the restrictions outlined in their 2001 resolution were still in the best interest of the public. Also addressed were the following issues of concern: enforcement; impact on local residents; damage to resources; impact on non-motorized users; and lack of follow through by the US Forest Service. Mary Sadowski provided a brief overview of damage to the hillsides, slopes, and stream banks caused by severe rains. She pointed out that the characteristic soils are prone to erosion and landslides, causing sedimentation problems in the creek. Ms. Sadowski provided the Commission with: (2) photos showing a side trail with a motorcycle track going up it during the seasonal closure; a copy of a letter from the Montana Department of Environmental Quality; and a letter from Patrick Byorth, of the Montana Fish, Wildlife & Parks. Ms. Sadowski read Mr. Byorth’s letter, expressing his support for temporary closure of the road to motorized vehicles. She noted that residents in the area have been trying to mitigate some problems by placing natural debris such as dead logs and rocks to deter some of the damage. She also pointed out that this road is a pretty heavily used road that is narrow and windy where people run, ride bikes, sled, ride horseback and push strollers. She provided (2) photos showing the increasing number of motorized recreationalist’s in the parking area and along the road, adding concern with the school zone, excessive noise problems and enforcement. In conclusion, she stated that action is needed because of on going adverse impacts to natural resources; violations of seasonal closure; trespassing and other law enforcement issues; resident’s safety and quality of life; non-motorized user enjoyment and conflicts; and lack of US Forest Service to follow through on its commitment to address these problems. Because this was a situation given the impacts of water quality affecting the whole East Gallatin Watershed area, she believed it was a significant impact to the whole county as well as the residents and the users. Ms. Sadowski hoped that this issue could be addressed in some manner prior to this year’s closure on June 1. Representing the Forest Service, Ranger Jose Castro reported that he was the responsible line officer for the Bozeman District, which includes the National Forest Lands in the Bear Canyon area. He noted that Shelly Waters and Mary Sadowski were putting pressure on the Forest Service to be more proactive in the Bear Canyon area. Mr. Castro noted that Ms. Waters and Ms. Sadowski filed a complaint with DEQ over water quality issues and were planning to petition the Gallatin County Commission for a temporary closure from the Bear Canyon trailhead up to National Forest System Lands. He introduced Mark Story, a forest hydrologist who recommended doing the following proactive measures on Bear Canyon: Let the monitoring that he (Mr. Story) will lead this spring/summer serve as a mechanism to determine if Bear Canyon is in water quality compliance or not; Conduct a field trip this summer with the FS and State to see what can reasonably be done to correct any immediate problems; Include at least 1 non-motorized alternative to be evaluated in the Travel Planning EIS; In the travel plan EIS, list mitigation measures that would be appropriate to provide motorized use in Bear Canyon and still meet water quality standards; Implement any immediate available sediment reduction measures this summer that they have funding for (watershed or trail maintenance). An area to look at closely is the fords on NF; and lastly, the Forest Service would do a seasonal closure from April 1 – June 30 annually. Mr. Castro noted that the Gallatin National Forest Service is in the process of revising the Travel Plan, the portion that deals with all the roads and trails from an access standpoint as well as appropriate uses and

environmentally acceptable. He commented that they would develop a timeline this spring or summer for some priorities and hopefully by fall be able to articulate to those interested. He stated that they may find it will require a lot of watershed rehabilitation expenditures and trail maintenance funding to continue motorized use on the National Forest land in Bear Canyon that may influence the preferred alternative for Bear Canyon in the Travel Plan. He also wanted to acknowledge that other uses such as horses and mountain bikes have impacts to that trail too therefore they would be looking at all activities with a holistic approach. He pointed out that the Gallatin NF does not have sole travel management jurisdiction in Bear Canyon. There are multiple jurisdictions and it is very complex. To close the Bear Canyon trailhead to motorized use at this time may require some NEPA and coordination with the State and would be out of schedule with the travel planning. Mr. Castro stated that the main issue was trail maintenance, and the Forest Service would like to begin the monitoring this spring and early summer. To adequately monitor any adverse effects to the water quality of Bear Canyon; it would be best to do it while it is being used for motorized OHV travel. It was suggested by Mr. Story that Ms. Waters and Ms. Sadowski get involved with the water quality monitoring and work with the process and schedule of the travel planning process. In summary, he believed there was very little that was irresolvable in this situation along with the ability to work with the County, State, and some trail user groups to resolve the sediment production issue. This would involve rerouting, adding bridges and base rock to the trails. He believed they could secure funding sources through an OHB Program or through their own CIP program. He hoped to see this as part of the Travel Planning Process and they were shooting for a decision in 2004. Agreeing that this was tied to the Travel Plan, Commissioner Murdock questioned if there was a specific preferred alternative for this trail. Mr. Castro replied that they would do an analysis to see if it was appropriate to have motorized activities or mechanized activities and see what will be appropriate. Commissioner Mitchell questioned if there was a timeline for priorities and processes. Mr. Castro stated that there was no timeline however that would be a priority by fall. With regard to funding, Mr. Castro stated that they have trail maintenance dollars and watershed dollars that go to the places with the highest priorities. Commissioner Vincent made note that the Clerk received several letters that will be entered into the record. Public comment: Kerry White urged the Commission to rely on the trails committee to do some process review with the Forest Service. He commended the Forest Service and urged the Commission to work with the Travel Management Plan. He believed that this area is highly erosive and even without use there would still be erosion. Joe Gutkoski pointed out that this area is a great water absorbing area that allows water to drain out gradually. He added that any amount of motorized traffic would inhibit it. He recommended extending the motorized restriction year round. Tim Kleppen, President of the Four Wheel Drive Club suggested if they were to shut down this area to all motorized use year around that they should shut this use off to everyone. He went on to explain that those who are irresponsible create problems for all users therefore he believed that self enforcement was needed and could be brought up by local club members from all organizations. Mr. Kleppen stated that there were grant funds available with the state that could be used for bridges and trail work. Another option suggested was to gate it. He urged the Commission to work with the motorized groups too. Phil Knight thanked the Commission for what they have done to date and asked them to institute an emergency closure along with the Forest Service until they come up with a solution that will work for everyone. Bob Stevenson, President of the Big Sky Country Trail Preservers stated that they were working to keep access open for responsible motorized user groups. He reiterated that there were OHB grants available and agreed to be a sponsor with the Forest Service and the county to procure those funds. In response to the problem of motorized users parking below, he suggested a possible long-term solution of providing parking near the trailhead for the motorized users. He provided the Commission with an informational brochure on their organization. Greg Muller spoke regarding noise in the area and safety of the road. Joanne Noel was not confident that the monitoring and the studies promised by the Forest Service would occur, as they had not done so in the past. She reported that the closure was violated daily and that the seasonal closure has not been enforced. She stated that the noise and disruption to their quality of life has been intolerable. She was concerned that their property values would diminish. She encouraged the Commission to institute an immediate and possibly a temporary closure to all motorized use. Dan Kuchinsky, on behalf of the Gallatin County Road and Bridge Department commented if the trail was closed that it would put more traffic onto Trail Creek, which is more dangerous and a higher speed road. Traffic would have to go up Goose Creek, which is not a county maintained road. He commented that underage children riding motorcycles on the road are generally residents of Bear Canyon Road. In response to earlier comments, he clarified that the county standard is not 30 feet. He briefly reiterated the following work performed by the county on the road: filled in holes; straightened the road; graded the road; installed a cattle guard and a gate; with a 50" track width restriction. He added that the Forest Service was going to gravel the trail. Patty Cramer stated that she believed the Forest Service blew it and they should have taken care of that area for the past few years. She applauded those who have offered to help however she believed that it was too late for the resource itself to be continually attacked. She urged the Commission to put a temporary closure on the road and work together. Linda Ellison stated that the Bear Canyon area has been important to motorized users for a long time and she would hate to see it closed to motorized use, even temporarily.

She urged them to work together to see what changes they are willing to accept in the area. Gordon Julian pointed out that this is a critical area in terms of water quality. Until they get the resources for monitoring, enforcement, and rehabilitation, he felt they should close the road. He believed that would provide enough political pressure to get it solved sooner. Doug Abelin concurred that this was a solvable situation if everyone worked together in a collaborate effort. He agreed with Mr. Stevenson's suggestion of putting a recreational trailhead at the end of the road. John Frohnmayer spoke regarding the noise problems and damage to the environment. While he believed collaborative action is worthwhile he urged the Commission to put a moratorium on until a workable solution is found. Steve Kuchinsky was opposed to closing off motorized use. Robert Zalieckes suggested that they let the Forest Service do their study and do the proper maintenance and clean up of the road to reduce the erosion problem. He did not think closing it off to motorized use would cure the erosion problem. Cliff Gullett agreed they had to make a plan that would work for everybody. He stated that a parking lot closer to the trailhead would make sense. He believed if it was closed to motorized use they should also close it to mountain bikes and horses. Mark White agreed with Dan Kuchinsky's comments. He suggested more enforcement. Lora Zeemer, on behalf of Trout Unlimited discussed concerns for water quality and fisheries in Bear Creek as well as it being a tributary and contributor to the East Gallatin. Trout Unlimited supported a temporary closure at least through 2004 to incorporate the Forest Service Travel Plan process and decision. This would give the area time to recover and allow the groups to work collaboratively on a permanent solution to protect and maintain water quality. Mike Jorgensen believed this should remain a public access and suggested they work together to improve all public lands. He concurred that the trailhead needs to have a parking area for motorized usage. Dolly Stocker wanted to see the neighborhood remain quiet and does not want heavy use on the road. Stewart Levitt on behalf of American Wildlands agreed with the importance of self-enforcement suggested by Mr. Kleppen. He stated that there was very strong evidence of the water quality being degraded significantly and exasperated by motorized use. He believed it would take many years for management planning to be completed therefore he stated that it needed to be attended to by an interim standard with a specific expiration. He submitted a letter from Kim Davitt. Bill Oyler stated that noise created by non-muffled motorcycles were his main problem along with enforcement. Chuck Beck, President of the Montana State Snowmobile Association was not for closing the road temporarily. He volunteered to help secure grant money. Gallatin County Road and Bridge Superintendent Lee Provance pointed out that the Commission cannot permanently limit traffic on Bear Canyon because Montana Code does not allow it however they have been heavily lobbied by the residents of the area, the Forest Service and a lot of other different agencies to limit traffic. There were several promises by the Forest Service, DNRC, and Fish, Wildlife & Parks who did not see a problem with the water or slides because of the nature of the area. He believed there were contributing factors to the murkiness of Bear Creek some of which was caused by ATV use although he believed the majority of the problem was that the Forest Service committed resources of a 50" path built, re-vegetation, phosphors dams, and silt barriers to Forest Service land that was to be maintained by them. This convinced the Commission to take action by resolution and limit traffic on Bear Canyon Road. He maintained that they got dropped like a bad habit. Mr. Provance stated that the Forest Service owed the Commission and the residents of the area an apology for the deception and that they needed to do good on their promise and repair it even though some of those making the promises no longer worked in this district. He believed that the Commission should insist upon that because they would not be having these problems if the trail would have been built and repaired correctly as promised in the first place. He did not believe they needed grants and that the Forest Service needed to keep their promises. The Commission commended everyone for the civility and respect shown during the hearing as well as suggesting positive solutions. It was noted if the Commission were to decide to take action it would be noticed and would involve a full public hearing. Commissioner Mitchell requested that the Forest Service provide a written timeline for their proposal, signed by all parties so everyone has a document to follow of what is expected. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 12:04 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 11TH DAY OF MARCH 2003

The meeting was called to order by Chairman John Vincent at 9:02 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock and, Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

MARCH 3-4, 2003

- The Commissioners conducted regular County business.

MARCH 5, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, and Mitchell, Sheriff Cashell, Clerk and Recorder Shelley Vance, County Attorney Marty Lambert, Commission Assistants Christina Thompson and Glenda Howze, and guest Joe Gutkoski. The Commissioners Mr. Gutkoski's request to seek an Attorney General Opinion on Bozeman Trail Road (Old Bozeman Road) and public access. The question at hand is who has the authority to establish public right of way on roads that have been closed for subdivision purposes. The Commissioners agreed that they support having the road open to the public, but will have to further research who may request an AG opinion.

The Commissioners considered approval of budget transfer requests from the Sheriff's Office and Justice Court. Commissioner Mitchell made a motion to approve both requests. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of the bulk office supply payment from contingency. Commissioner Mitchell made a motion to approve said payment from contingency. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

MARCH 6, 2003

- The Commissioners attended a special meeting with the WGM Group and Montana Department of Transportation (MDT) to discuss Valley Center Road. In attendance were Commissioners Vincent, Murdock and Mitchell; Jim Weaver, WGM Group; and Tim Connelley and Rob Bukvich of MDT. The group discussed the engineering plans for Valley Center Road. Commissioner Murdock made a motion to approve the MDT design with the following determinations: 1) South side location for the pedestrian trail; 2) eight feet for full length of the trail; and 3) start Valley Center construction on the east end. Commissioner Mitchell seconded the motion. In discussion, Commissioner Murdock stated that a letter would be sent to MDT to confirm this action. All voted aye. Motion carried unanimously.

MARCH 7, 2003

- The Commissioners attended a special meeting for the purpose of approving a contract with Yellowstone National Park for garbage hauling to the Composting Facility in West Yellowstone. In attendance were Commissioners Vincent, Murdock and Mitchell, Finance Officer Ed Blackman, Grants Administrator Larry Watson, and Commission Assistant Glenda Howze. The contract is to collect garbage in the Park and haul it to the composting facility at the cost of \$189,000 for the first year and a minimum of \$128 a ton thereafter. The contract is for two years. Commissioner Mitchell made a motion to approve said contract, pending County Attorney approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

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- Landfill Revenue for February 2003: \$816,505.41.
- Payroll for February 2003: \$1,193,235.89.
- Clerk & Recorder's Fees Collected for February 2003: \$83,454.20.
- A-101's for February 2003: \$72.17.
- Application for Cancellation of Taxes for February 2003: \$274.82
- New Hire Report for February 2003: Jennifer Anderson, Kevin Bright, Karin Caroline, Wendy Emory, Cassie Hinds, Barbara Jensen, Jessica Johnson, Ross Knapper, Larry Wix

Terminated Employees' Report for February 2003: Betty Bradley, Mitchell Burch, Lisa Carpenter, Christopher Gray, Rhonda Hoyem, Rosemarie Murrish, Sneha Talati

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated March 6, 2003, in the amount of \$443,400.22.
2. Approval of Contract(s): Jason T. Cutts for Justice Court Collection Services
3. Request for Common Boundary Relocation Exemption for H2O Holdings Group, LLC, described as Tract 7 and Tract 8 located within the W ½ of the NW ¼, SE ¼ of Section 26, T7S, R3E, PMM, Gallatin County, Montana. Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Mortgage Survey Exemption for Thomas and Shannon Nygard, located in parts of Section 5 and Section 8, T3S, R5E. (10570 Enders Road). Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent made the following announcement: Regular agenda Item #5, public hearing and consideration of an application to the Board of Crime Control for continued funding of the Missouri River Drug Task Force Program would be continued until March 18, 2003. Regular agenda Item #6, continuation of a public hearing and consideration of a request for a variance for road impact fees for Milligan Minor Subdivision was to be continued indefinitely.

Commissioner Murdock read the consent agenda. There was no public comment. **Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

One vacancy exists on the Gallatin County Airport (Progreba) Board due to the term expiration of Jim Laird. This position is for five years and will expire March 4, 2008. Mr. Laird was notified and indicated a desire to be reappointed to the board. One additional application has been received from Cynthia Garrity. There was no public comment. The Commission agreed to continue appointment to this board until March 25, 2003, for research and review of the applications. **No action taken.** Appointment to the Northside Rural Fire District was continued pending additional applications. **No action taken.** Three vacancies exist on the Search and Rescue Advisory Board due to the term expirations of Travis Thorson (Gallatin County Posse), Scott Dreblow (Headwaters Paddling Assoc.), and Donald Wilson (Gallatin Ham Radio Club). These are three-year terms, with Mr. Thorson and Mr. Wilson's positions to expire on June 30, 2005, and Mr. Dreblow's position to expire on June 30, 2004. All members were notified and Mr. Thorson and Mr. Wilson indicated a desire to be reappointed; Mr. Dreblow is no longer interested in serving. To date, no additional applications have been received for the positions with the above referenced agencies. There was no public comment. The Commission agreed to continue these board appointments indefinitely. The reason being was that these are pass through appointments where the various organizations submit their recommendations and to date the Commission has not received those recommendations. **No action taken.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Gallatin County FY 2003 final operating budget for receipt of unanticipated revenues of \$7,387 for the Willow Creek Rural Fire District. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-023. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Airport Director Ted Mathis reported on the public hearing and consideration of a resolution of intent to amend resolution #1553 Creating Municipal Airport Authority, approved on November 22, 1972. Mr. Mathis explained that this was a request by the Gallatin Airport Authority to handle its own funds as allowed under State Statute, adding that they have the recommendation of the Gallatin County Treasurer, Finance Officer and their independent auditor. There was no public comment. Gallatin County Finance Officer Ed Blackman stated that he was waiting for a written statement from the County's independent auditors for both 2001 and 2002, stating that they both agree this was in the best interest of the county. They also stated that there was no significant impact as long as the audits and financial statements were presented to the Clerk and Recorder on a yearly basis and that they are still reported as a component unit. **Commissioner Murdock moved to approve Resolution of Intention**

#1553A. Seconded by Commissioner Mitchell. None voting nay. Motion carried.

Gallatin County Finance Officer Ed Blackman reported on the public hearing on the Financial Trend Analysis and Financial Forecast. Mr. Blackman briefly highlighted the Financial Trends, noting that the overall rating for FY 2002-03 is Favorable. Currently 14 indicators are Favorable and 3 indicators are Unfavorable. This is still down from FY 97-98 when 15 indicators were Favorable with 2 being Unfavorable. He pointed out that there were significant affects caused by legislature in the last session and we are starting to see their trend in this session with some items therefore he had significant concerns about legislative actions before the end of this session. Because of recent legislative actions: The growth attributable to reappraisal has been significantly reduced; The historic 8% to 10% growth in motor vehicle revenues is reduced to an estimated 2.3%; and Growth for Non Tax Revenues associated with state transfers, (Personal Property Reimbursement, Corporate License Tax, and Alcohol taxes) are eliminated. The County's ability to pay for inflationary cost increases, let alone the significant impact of population growth, were adversely impacted. Major factors that will affect the county for the foreseeable future include: What the state changes in District Court Assumption?; The threatened ACLU suit on the current Detention Center will require a significant portion of the Commission's discretionary funds be used. This will adversely affect the current personnel, addition of personnel and capital needs of the county unless a revenue stream that is ongoing can be identified; and What will the FY 2003 legislature do about Reappraisal, local option taxes and Sales Taxes? What will the legislature or state departments/agencies transfer to the counties without funding? Mr. Blackman stated that he would address the public with an update of what was done at this year's legislature that would directly affect county government once the session is wrapped up. There was no public comment. **Commissioner Mitchell moved to accept the Fiscal Officer's report on our financial status. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for preliminary plat approval for C & H Engineering and Surveying, Inc., on behalf of M, M& I, LLC for the Riverfront Park Subdivision, located east of Belgrade off Spain Bridge Road, near its intersection with Airport Road. The property is described as Parcels 3, 5, 6, and 7, COS #1909 and Parcel 8-A, COS #1909A, located in the NW ¼ and SW ¼ of Section 4, T1S, R5E, PMM, Gallatin County, Montana. The 144-lot subdivision on 111.61 acres is being planned in 4 phases. The Belgrade City-County Planning Board reviewed the preliminary plat for the Riverfront Park Subdivision and unanimously voted at their February 24, 2003 public hearing to recommend preliminary plat approval, subject to the conditions. Notice was published in the High Country Independent Press and adjoining property owners were notified. The applicant requested a variance from the Gallatin County Subdivision Regulations to allow Phase 1 to receive final plat approval prior to the paving of Spain Bridge Road. Spain Bridge Road will have over 100 average vehicle trips per day therefore the road will be required to be paved from Airport Road to Riffle Road (formerly known as Sorrell Street) prior to final plat approval of Phase 1 unless a variance is granted by the County Commission. The Planning Board voted to recommend the variance because Spain Bridge Road's traffic count is low and because the road will be paved with Phase 2. The developer requested that the fire fill-site not be required to be in place prior to final plat approval of Phase 1. The Fire Department requested that the fill-site be in place and operational prior to final plat approval of Phase 1. The subdivision is located just outside the Gallatin Field Airport's influence area, but is in an area that can be affected by the airport's operations. John and Tricia McKenna submitted a letter with concerns regarding their private airstrip. Mr. Karp noted several letters were received with comments on the subdivision that were attached to the staff report, along with a most resent letter from Jim and Linda Houdashelt (Exhibit "A") that was submitted to the Commission. He received a phone call from Erlene Mazuranich who also submitted a letter requesting that the subdivision be required to put in a central water system and recommended a covenant requiring drip irrigation systems with timers. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate, staff findings, and Master Plan compliance for considering the subdivision along with the suggested conditions. The Commission needs to make the following determinations: A determination as to whether or not to grant the proposed variance from paving Spain Bridge Road prior to final plat approval of Phase 1; and a determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility

companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants with the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. The Homeowner's Association will maintain all boundary fences around the subdivision, including no trespassing signs. d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief. e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District. f. A homeowners association shall be established and be required to maintain all interior subdivision roads. g. The homeowners association shall be responsible for the maintenance of all parks within the subdivision. h. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. i. A statement on the final plat addressing possible problems associated with the nearby Gallatin Field Airport's and other existing private airstrip's operations and affirming the airport's and airstrip's right to operate. The language shall state as follows: Lot owners are informed that an airport and private airstrip exists in the proximity of the subdivision. Lot owners and users of the subdivision are aware of this proximity and that the area is subject to frequent low level aircraft overflight and noise associated with aircraft operations and shall wave all rights to protest about aircraft and airspace use and shall affirm the aviation industry, both public and private, the right to fly. j. The homeowners association is responsible for the maintenance of the fire protection water supply. k. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 6. A copy of the covenants shall be submitted to the Belgrade Planning Office. A copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office. Both submittals shall be 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall approve the covenants and certificate prior to final plat approval. 7. Fire and Road Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact fee regulations. 8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval. 9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department. 10. The road names must be approved by the Gallatin County GIS Department. Interior subdivision roads shall be 60-foot right-of-ways, dedicated to the public, and be paved to County Standards. Roads ending at future phase boundaries or unsubdivided land shall terminate with a temporary cul-de-sac or "T" type turnaround constructed to Gallatin County Standards. 11. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs. 12. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification and a copy of the homeowners association by laws and covenants must be provided to the County Road Office in writing prior to final plat approval. A two-year written warranty must be provided to the County for required paving of County maintained public roads. 13. A detailed signage and drainage plan shall be submitted to the County Road Office for approval prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 14. Encroachment permits must be obtained from the Road Department for the accesses to Spain Bridge Road. Lots 1 and 3 of Phase 1 access will be provided in the location of the proposed Sorrell Street and Roan Road as approved by the Road Department. 15. An NFPA compliant fill-site approved by the Belgrade Fire Department shall be installed and operational prior to final plat approval of Phase 1. 16. 45 feet of Spain Bridge Road west of the centerline shall be dedicated to the public along the entire width of the subdivision. 17. The final plat shall

contain statements that include the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights. Irrigation ditches are hazardous to small children. 18. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 19. Spain Bridge Road is required to be upgraded and paved to Gallatin County Standards from Airport Road to the proposed Sorrell Street prior to final plat approval of Phase 2. 20. The final plat shall indicate that the parkland is dedicated to the homeowner's association. 21. A minimum 50-foot riparian area with natural vegetation shall be maintained in the park along the river as requested by the Montana Department of Fish, Wildlife, and Parks. If the applicant elects to submit a final plat for each phase, on the conditions which apply to that phase must be completed before final plat approval. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. Mr. Karp noted if the variance were denied then condition #19 would need to be changed. He recommended adding the following: condition #22: "Access road to be provided to Lots 4 and 5 of COS 1762, as approved by the Road Department". Developer Nadia Beiser pointed out the subdivision plan and the Belgrade Area Master Plan for Future Land Use on the display graphics. Ms. Beiser stated that the plan for Riverfront Park satisfies the County Subdivision Regulation; implements the new Belgrade Area Master Plan; complies with the Belgrade Area Future Land Use Plan and incorporated the recommendation made by the Planning Board during its three prior reviews. The plan has been modified to satisfy the concerns of the Road Department, Belgrade Fire Department, and many of the neighbors who contributed valuable input. A common complaint voiced with regards to this subdivision is density and Ms. Beiser pointed out that the density and the land uses do comply with the Master Plan and implement the Planning Boards vision for controlled growth in Belgrade. She commented in response to the letter regarding impact fees from the Sheriff stating that they would be happy to cooperate with any countywide application. The covenants include a disclaimer for all future buyers saying they will not protest and will accept such a countywide application for impact fees. She noted several roads were stubbed to neighboring properties to accommodate for future development. She made note that Randy and Mickey Moret neighboring property owners to the north do not want to develop and expressed concern about trespassing. It was agreed that they would not stub a road to that area and they would pay for the maintenance of the fence that currently exists as well as post no trespassing signs. Language would also be inserted into the covenants warning homeowners that it is private property. She added that several other concerns regarding agricultural odors, noise, and pesticides were also addressed in the covenants, with a disclaimer against preexisting agricultural uses and flights from the private airstrip and Gallatin Field. She explained the purpose of the variance for Phase 1 was to generate immediate cash flow for the infrastructure and off-site improvements. Ms. Beiser covered the following aspects of the proposal such as the floodplain; setbacks; community waste water systems; historic data on ground water levels; aquifer; fill-site; and the continuous pedestrian bike path. The ground water data was submitted to the County Health Department and their response was they did not believe any additional monitoring of ground water is recommended or necessary at this site. She noted that the \$253,000 of impact fees would presumably assist in any maintenance or work on Airport Road due to any increased trip generation. Public comment: John McKenna expressed concerns with allowing this level of density at the river corridors and asked the Commission to look at the cumulative affect with all this development. He also noted concern regarding the drain fields. He was in agreement to the condition pertaining to his airstrip. Attorney David Wagner, on behalf of the Crowley Law Firm submitted a letter, (Exhibit "B") representing Randy and Mickey Moret property owners boarding the proposal. He pointed out what he believed were deficiencies in the application as follows: The preliminary plat does not define the location of the community septic systems and individual wells; Neither the preliminary plat nor the application contain sufficient information concerning the condominium lot; The applicant has not conducted a traffic study and the data provided is unreliable; There does not appear to be a detailed plan of the fire protection water supply as required by the Belgrade Rural Fire District; and Water. Mr. Wagner outlined in detail the reasons addressed in the letter along with additional concerns related to the application such as the fill-site; existing wells going dry; setbacks; roads; and wetlands. Mr. Wagner implied that there was no other option but to deny preliminary plat approval. Commissioner Vincent stated that Mr. Wagner raised certain legal implications that have not been raised before. He wanted to clarify that Mr. Wagner was not arguing a particular aspect of the application; he was stating that the application in and of itself was deficient on its face and that it should have never been accepted. Commissioner Vincent noted that it also brought into question the ethnicity of this hearing today given the argument that his clients and the general public and by implication the Commission does not have adequate information to testify or to make a decision. Mr. Wagner agreed that it was the exact interpretation. He did not understand how the Commission could look at health, safety, and welfare issues without even knowing where the sewage treatment was going to be located. Commissioner Murdock questioned if in his testimony Mr. Wagner was saying there was not adequate information in

his opinion to show the traffic impacts onto Highway 10 and right angle turns generated from this development would be mitigated. Mr. Wagner replied that the data on its face was incorrect and he did not believe their exhibit and the textbook they relied on was not reliable. Jay Bentley stated that the merits of this project were not an issue with him. He found it of interest after 3 hearing in which the developer complied that they have to go through another hearing. Betsy Miller, owner of Montana Perennial Farms, which is adjacent to the development on two sides, was not for or against the development. She voiced some major concerns with the developer, which were to be addressed in the restrictive covenants. They are an agricultural business on 20 acres with 19 greenhouses, and 7 of those acres have not been developed. They did not want to be restricted from expanding that remaining acreage by adding additional greenhouses; planting that field; using pesticides; and keeping their lights on. Because of their usage of power and electricity they were concerned about the natural gas usage and electricity. She made note that they had a verbal understanding with Northwestern Energy that they will not be without power for more than 45 minutes otherwise it would be disastrous to their business. She provided the Commission with Exhibit "C", an aerial photo of their property. She expressed concern with water quantity as well as protection from the continuous lighting. Ms. Miller requested the developer install an 8 foot fence on the west side for protection of the homes from the continuous lighting as well as the safety of children and pets. She pointed out that they also shoot ground squirrels because that is the only way they can eradicate them safely. Additional concerns were: the engineering of the road; disruption of business; the access from Airport Road to Spain Bridge Road; drainage problems at the west end of their property; spark arrestors because of the materials used for their structures; and fertilizer and pesticide odors. Jim Houdashelt requested road access from the Riverfront Park Subdivision on the east/west boundary line between their lots. Mr. Houdashelt also addressed water quantity issues, overcrowding in the Belgrade School system, safety of Highway 10, and wildlife habitat. Fredrick Richards, representing Pegasus LLC spoke in support of the subdivision. Lorena Dorrell raised concern regarding wells; property values; disruption of the rural atmosphere and how it may affect personal lifestyles; wildlife; traffic and safety. She did not propose that this subdivision should be banned however she believed it would be more appropriate to gradually phase into the higher densities. Troy Dorrell stated that his property adjoins the development however according to the engineering it does not which raised concerns regarding other engineering. Mr. Dorrell was not opposed to the subdivision but at the same time he did not think the safety and lifestyles of others should be sacrificed at the profit of others. He spoke regarding the affects this development would have on lifestyles; wildlife; density; traffic; and water. Trina Kallenbach offered her support for Belgrade in their endeavors in putting together the Master Plan and urged the Commission to support it. George Durkin, on behalf of the Gallatin County Road and Bridge Department commented that they were very concerned about all the approaches coming off a short distance in that area as well as the increased traffic on Spain Bridge Road. He noted that the curve data for Sorrell Street was missing on the plat, and added that a full-blown traffic study would help. Ms. Miller clarified the depth of her well was 65 feet. In rebuttal, Ms. Beiser stated that she was very concerned about all the comments and concerns. She reiterated that density, sprawl, and open space all speaks to the Master Plan that was developed by the Belgrade Planning Board, identifying areas where they would like to see suburban development. With regard to Mr. Wagner's comments, Ms. Beiser stated that she was sure some of the things he thought should be shown on the preliminary plat; need to be on the final plat. She added that some of the things he alleged were are not accurate. They have a traffic study prepared by professional engineers and a fire impact study, of which she had a letter acknowledging receipt, acceptance, and approval. They are also upgrading Spain Bridge Road and the intersection with Airport Road. In addition, there is over a quarter of a million dollars of impact fees generated from this subdivision for upgrades and maintenance on Airport Road. She believed development of this subdivision would increase the protection of power to this area because there will be added feeder lines in response to Ms. Miller's concerns with power. She confirmed that the covenants address fireplace arrestors as well as a warning to homeowners that neighbors shoot gophers. She stated that she would be happy to work on the requests made regarding the number of accesses onto Spain Bridge Road. It was noted that the school superintendent did not respond to their letter. She commented that those wells mentioned to be decreasing and going dry are shallow wells and she was sure DEQ would require much deeper wells into the second aquifer. It was noted that the Dorrell's were shown on the plan in response to Mr. Dorrell's testimony that they were not. With regard to the riverfront and the wildlife corridor, Ms. Beiser pointed out that the minimum requirements are 35-feet for setbacks, and Kurt Alt who is the representative of Fish, Wildlife & Parks recommended a 50-foot setback, and noted that their average setback is 235-feet to protect the wildlife. Mark Chandler, on behalf of C & H Engineering and Surveying confirmed they did the traffic impact study as specified in the Subdivision Regulations and incorporated two methods. He explained in detail that one was using the Trip Generation manual 5th addition and the other was the county 8 trips per day specified in the Subdivision Regulations. Although it was not noted in the application, he estimated that about 70 to 80 percent of the traffic coming out of this subdivision would go down Airport Road to Springhill Road. The remaining traffic would probably go to the Frontage Road. He noted that they have not yet designed the sewer and water system. Commissioner Vincent requested documentation

backing up the statistic Mr. Chandler mentioned about the traffic generated by this subdivision not going down Airport Road and coming onto Highway 10, believing it was relative to considering this application. He added that the application should contain information that substantiates that claim. Commissioner Mitchell expressed her distress in the fact that Mr. Chandler used a different number and calculation and not document why he used it and why the county should consider that as valid. Mr. Chandler pointed out that they have a statement that indicates 90 percent or more of the traffic will travel south on Spain Bridge Road however it does not say which way they go once they get to Airport Road. Bill Dreyer, on behalf of C & H Engineering and Surveying clarified that the application included a list of all the wells in that section of land and shows the depth of those wells. Attorney Susan Swimley, representing the applicant addressed Mr. Wagner's insinuations that they were hiding information. She wanted to correct the record by noting that Mr. Moret hired Mr. Wagner after the Belgrade Planning Board meeting and at his request she went through every effort to produce for him a copy of the full application on the day he asked for it. Ms. Swimley noted when the Commission adopted this plan; this area was designated to be suburban in density. She reminded the Commission that there was no zoning, noting if they had zoning they would not be having this discussion. She stated when directing growth around the city centers, you get small lots on central sewer, because it is perceived to be more reliable and there is a mandatory professional maintenance. Ms. Swimley pointed out that the location of the wells and the central sewer drain fields do not go on a subdivision application plat, in response to Mr. Wagner's allegation that the application was deficient because it did not show the locations. In response to comments regarding unsafe roads, Ms. Swimley noted that it is the Commission's obligation to review what is in the Subdivision Regulations as criteria for development, and then they may identify if there are significant adverse impacts, and mitigate those impacts. Ms. Swimley noted that the letter from Mr. Durkin requested a more detailed traffic impact study as a condition and after speaking with Ms. Beiser they felt it was important for the Commission to be able to see a more detailed traffic impact study than what was in the application. Therefore a continuance was requested in order to provide that information. In addition, she requested that all Commissioners be present. Because Mr. Durkin's letter did not get incorporated into the conditions they anticipated that they would be adding those conditions. In addition, they agreed to stub the road between Lots 4 and 5 to the Houdeshelt's property and noted that the spark arrestors were addressed in the covenants. Ms. Swimley referred the request to Ms. Beiser regarding the covenant for drip irrigation with timers and the 8-foot fence, as they had not had the chance to discuss it. She offered to provide additional notice before construction and call before they start to dig, to alleviate concerns mentioned regarding disruption in power. She pointed out that staff found the application to be complete, noting the application is complete based on the required submittals for preliminary plat. Ms. Beiser clarified that the 8-foot fence referred to by Ms. Miller was something they were proposing to do and they are working together on trying to make the fence more attractive with possible buffering with trees of which they will cost share. She did not propose to mandate the type of irrigation an individual homeowner might select however she would have not problem requiring that they use a timer. The Commission was in agreement to a continuance until March 25, 2003. Commissioner Vincent added that he was not going to close the public hearing so anyone wishing to testify with new information based on today's hearing could do so. He stated that the Commission would also accept written testimony and requested that any new information submitted by the developer be available to the public beforehand. Fisheries Biologist Patrick Byorth, representing Montana Fish, Wildlife & Parks stated that he had just received a phone call from a concerned member of the public saying that it had been represented at this meeting that Fish, Wildlife & Parks have reviewed and commented on this proposal and he had not had a chance to review it. Mr. Byorth requested a copy of the preliminary plat so he could provide comment. Mr. Dreyer stated that he had met with Mr. Alt about this project and left an additional preliminary plat for Mr. Byorth. Commissioner Vincent stated that the Gallatin County Environmental Assessment states: As of this date a response letter has not been received from Montana Department of Fish, Wildlife & Parks. Several attempts have been made to meet with Kurt Alt but due to the busy game-harvesting season a meeting was not able to be made. Mr. Dreyer stated that a week after they turned in the report he notified Mr. Karp of the meeting with Mr. Alt. Commissioner Mitchell stated that anything they do not receive in writing is hearsay as far as she was concerned. She stated that she would not take his word for conversation because it does not work that way. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 12:14 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

The meeting was called to order by Chairman John Vincent at 9:04 A.M., at the City Commission Meeting Room. Also present were County Commissioner Jennifer Smith Mitchell, and Acting Clerk to the Board Mary Miller. Commissioner Murdock was excused.

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Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

MARCH 10, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, and Mitchell, Clerk and Recorder Shelley Vance, Grants Administrator Larry Watson, Community Corrections Director Teresa Flanagan, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered approval of a continuation grant for FY 04 Community Corrections Program. Commissioner Murdock made a motion to approve an application to the Montana Board of Crime Control for a continuation grant of the Community Corrections Program for FY 04. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed approval of the Finance Office budget timetable. Commissioner Murdock noted that he wants the process to be public driven and no internal department driven. The process begins on April 23rd and allows for department heads to come to the Commission with comment on the budget at a public meeting. Commissioner Vincent made a motion to approve the budget timetable as suggested by the Finance Office. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed the creation of a solid waste district. Mr. Watson reported that he will be working with Treasurer Anna Rosenberry and GIS Coordinator Allen Armstrong on creating mailing labels. The mailing must go out prior to adoption to allow people an opportunity to protest or comment. Mr. Lambert and Mr. Watson will continue to work on the process.

Under "Road Matters," the Commissioners agreed considered signing a buy-sell agreement for property for the Road Department to relocate to. Commissioner Murdock made a motion to authorize signature of the buy-sell agreement as stated. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

MARCH 11, 2003

- The Commissioners conducted regular County business.

MARCH 12, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Mitchell, GIS Coordinator Allen Armstrong, Finance Officer Ed Blackman, Road and Bridge Superintendent Lee Provance and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered approval of a request from Mr. Armstrong to use outside contracting for 911 mapping. Mr. Armstrong stated that he would like permission to use funds from the Big Sky Zoning funds for mapping - to contract for centerline road mapping. This would set 911 up with better mapping. The cost is \$15.00 per mile of road collection and the total cost should not exceed \$2,000. The money from the Big Sky Zoning funds was unanticipated revenue to the GIS Department. Mr. Blackman stated that he is concerned about covering the whole cost for 911, as the County never gets reimbursed for the City's portion. The more that the County does, the more that is expected. Commissioner Mitchell suggested writing a proposal for 911 reimbursements and keeping track of the time spent on the 911 project. Mr. Armstrong agreed to write a proposal letter to 911 for reimbursement. No action was taken on the request at this time.

The Commissioners discussed a request from Road and Bridge Superintendent Provance for authorization to close Clarkston Road to all truck traffic, including school busses. The road is bottomless mud. They have placed loads of rock on the road but it keeps sinking. Commissioner Mitchell made a motion to close Clarkston Road as advised by Mr. Provance, finding that it is appropriate given the road conditions, and authorizing Mr. Provance to use his judgment as to re-opening the road when appropriate. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a contract between Eden Systems and Gallatin County for implementation of the BARS conversion. Commissioner Mitchell made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners approved the letters to Denning, Downey & Associates as drafted by Mr. Blackman.

The Commissioners attended a special meeting for the purpose of considering approval of a mortgage survey exemption. In attendance were Commissioners Mitchell and Vincent, Planning Director Jennifer Madgic, Planner Chris Scott, Applicant David Kack, and Commission Assistant Glenda Howze. Ms. Madgic explained that this application creates a tract of land that is slightly less than the original parcel. Zoning in this area allows for 10% variation. A boundary relocation will be submitted for this parcel. The purpose of the exemption is to secure a construction loan for a single family dwelling on the parcel. Commissioner Mitchell made a motion to approve said application for mortgage survey exemption, finding that Planning has recommended approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

MARCH 13, 2003

- The Commissioners attended a special emergency meeting for the purpose of approving a Disaster Declaration due to Flooding in Gallatin County, Montana. In attendance were Commissioners Vincent and Mitchell, DES Coordinator Jason Shrauger, Road and Bridge Superintendent Lee Provance, and Commission Assistant Glenda Howze. The Declaration covers the current incident named "Big Thaw, March 2003." Mr. Provance noted that the worst is yet to come. Commissioner Mitchell made a motion to approve a Disaster Declaration for Flooding titled "Big Thaw, March 2003" in Gallatin County Montana. Commissioner Vincent seconded the motion. All voted aye. Motion carried unanimously.

MARCH 14, 2003

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated March 13, 2003, in the amount of \$354,922.32.
2. Consideration of a Request for Common Boundary Relocation Exemption for Mike Boylan, described as Tract A-1 of COS 2017 and Tract 1 of COS 1499 situated in the E ½, SW ¼ of Section 10, T1S, R4E. (Southwest of Belgrade, west of Thorpe Road). Belgrade City-County Planner Jason Karp stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Consideration of a Request for Common Boundary Subdivision Relocation Exemption for Cliff and Nick Schutter, situated in the SE ¼ SE ¼ of Section 20 and in the NE ¼ NE ¼ of Section 29 and also being the S ½ of Section 17, the SE ¼ of Section 19 and Section 20, T1N, R3E. (Southwest of Manhattan). Manhattan Planning Consultant Ralph Johnson stated that the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent announced that regular agenda Item #1, consideration of adoption of the Financial Forecast and Plan had already been considered at a prior hearing. **No action taken.**

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Mitchell moved to approve the consent agenda. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County, non-named to Russell Lane. At a prior hearing a concerned citizen requested that they re-visit with the neighbors about a potentially different name, which was allowed. After discussion they decided to stay with the name Russell Lane. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-025. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution amending #1553 "Resolution Creating Municipal Airport Authority" approved on November 22, 1972. There was no public comment. **Commissioner Mitchell moved approval of Resolution #1553-B,**

noting that it is basically a bookkeeping adjustment. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Gallatin County Grants Administrator Larry Watson reported on the continuation of a public hearing and consideration of application to the Board of Crime Control for continued funding of the Missouri River Drug Task Force Program. Gallatin County acts as the lead administrative agent on behalf of the seven counties and four cities that comprise by interlocal agreement the MRDTF. The budget for this year's program is \$506,236, of which the Board of Crime Control funding available is estimated at \$379,677. On the local level there is \$108,000 in match that needs to be made up by the law enforcement agencies that participate. Gallatin County being the largest active agent in the task force has a local match in the amount of \$71,816.15. The true matching percentage on this grant is approximately 48 percent local funding and 52 percent funding for the Board of Crime Control. There was no public comment. **Commissioner Mitchell moved to approve the continued funding application for the Missouri River Drug Task Force Program. Seconded by Commissioner Vincent. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a request for preliminary plat approval for the Lone Moose Meadows Phase 1 Subdivision (Amended plat of Minor Subdivision #257). Mr. Johnson spoke with applicants and with the Commission's concurrence they requested a two-week continuation until April 1, 2003, to allow them to present their application before a full Commission. The applicant's representative Bob Lee with Morrison-Maierle confirmed it was their wish for a continuance because, Commissioner Murdock represented so much history in the Big Sky area, and they wanted him present. Gallatin County Attorney Marty Lambert requested that the applicant waive any concern over the statutory deadline regarding minor subdivision review. Mr. Lee agreed to waive that stipulation. The Commission agreed to check the April 1st agenda and verify if this could be considered at that time or if another date would be more appropriate. **No action taken.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for Arrowhead Surveying on behalf of Rod and Geneva Becker for preliminary plat approval of the Becker Minor Subdivision. The proposal is for two lots on 6 acres, located southwest of Belgrade on Oro Lane. The property is described as Tract A of COS 231 in the NE ¼ of Section 14, T1S, R4E, P.M.M., Gallatin County, Montana. The Belgrade Planning Board voted unanimously at their February 24, 2003 public meeting to recommend preliminary plat approval of the subdivision subject to the conditions. It was believed the impacts would be minimal because of the existing residential uses already there. Mr. Karp briefly summarized the staff report that contained criteria for the Commission to evaluate and staff findings for considering the subdivision along with the suggested conditions. The Commission needs to make the following determinations: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the County Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval: 1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates. 2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever." 3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval. 4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat. 5. The developer shall record covenants on the final plat including the following provisions. a. Requiring control of county declared noxious weeds. b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and residents of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment,

chemical sprays and the use of machinery early in the morning and sometimes late into the evening. c. All fences bordering agricultural lands shall be maintained by the Homeowners in accordance with State Law. d. The Homeowners shall be responsible for participating with the other Lot owners along Oro Road for the shared maintenance of the road. e. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done. f. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.

6. A copy of the covenants shall be submitted to the Belgrade Planning Office. A copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office. Both submittals shall be 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall approve the covenants and certificate prior to final plat approval.

7. Road Impact fees and Fire Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact Fee Regulations (*no impact fees are required due to existing residences on each lot*).

8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.

9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.

10. The developer shall provide one of the following standards to ensure a reasonable level of fire protection and life-safety to the public and firefighters. The following requirements must meet the specifications of Gallatin County Subdivision Regulations Section 6-E-5 and be reviewed and approved by the Belgrade Rural Fire District. The subdivider shall obtain written verification from the Belgrade Rural Fire District that one of the following requirements has been met.

a. A single 10,000 gallon water supply for each home and associated structure meeting the requirements of Section 6-E-5(a).

b. A single 20,000 gallon water supply meeting the requirements of Section 6-E-5(b).

c. A rural fill site meeting the requirements of Section 6-E-5(c).

d. R-3 occupancies as defined by the Uniform Fire Code may be protected by automatic fire sprinkler systems meeting the requirements of NFPA 13D. If the sprinkler options is used the covenants must include the following provisions.

1. Automatic fire sprinkler systems shall be installed in all structures, which are used for living and home business which people normally occupy. The fire sprinkler system must meet the requirements of NFPA 13D.

2. A stamped set of engineered sprinkler system plans and covenants requiring the installation of sprinklers shall be submitted to the Belgrade Rural Fire District for review and be approved prior to construction, and the sprinkler system must be inspected by the Belgrade Rural Fire Department during construction and at completion as required by the Belgrade Fire Chief.

3. A pressurized fire hydrant system meeting the requirements of Section 6-E-5(e).

4. 30 feet of Oro Road west of the centerline shall be dedicated to the public on the final plat along the entire length of the subdivision.

5. The final plat shall contain a statement that includes the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may remove water or cause to be removed water without deeded water rights.

6. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. There was no public comment.

Commissioner Mitchell moved to approve the Becker Minor Subdivision, finding it meets all the requirements of State Statues, Gallatin County Subdivision Regulations and the Belgrade Planning Board and with the conditions as presented by staff. Seconded by Commissioner Vincent. None voting nay. Motion carried.

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for Gateway Engineering and Surveying, Inc., on behalf of Longhorn Development for preliminary plat approval for the Longhorn Estates Subdivision. The proposal is for 27 lots on 33.16 acres, located east of Belgrade on the south side of Airport Road, near its intersection with Springhill Road. The property is described as Tract B of COS 856 and a portion of Film 24, page 1463 on record at the Gallatin County Clerk and Recorder, located in the SE ¼ of Section 3, T1S, R5E, P.M.M., Gallatin County. The Belgrade City-County Planning Board voted unanimously at their February 24, 2003 public hearing to recommend preliminary plat approval of the subdivision subject to the conditions. Adjoining property owners were notified of the subdivision and a notice of public hearing was published in the High Country Independent Press as required by subdivision regulations. Subdivision Regulations require a cash or parkland donation of 5% of the area of the land proposed to be subdivided into parcels. The applicant is proposing to submit cash in lieu of parkland donation. He noted that the primary concern is the potential effect on groundwater. There are no variances requested. Mr. Karp summarized the staff findings, primary criteria, and Master Plan compliance for the Commission to evaluate for considering

the subdivision along with the suggested conditions. The Belgrade Area Plan-1999 Future Land Use Map designates the area where this subdivision is located as "Medium Density". The County Commission needs to make the following determinations: A determination as to whether or not the proposed subdivision meets the requirements of Section 76-3-608 MCA. If the Board finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval:

1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates.
2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies. The following statement shall be written on the final plat: "The undersigned hereby grants unto each and every person or firm, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicants shall obtain the Gallatin County Health Officer's approval.
4. A waiver of right to protest creation of Rural Improvement Districts and Water and Sewer Districts shall accompany the final plat.
5. The developer shall record covenants with the final plat including the following provisions.
 - a. Requiring control of county declared noxious weeds.
 - b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
 - c. All fences bordering agricultural lands and adjacent subdivisions shall be maintained by the Homeowners in accordance with State Law.
 - d. All structures must meet the fire flow requirements as outlined in the current adopted edition of the Uniform Fire Code unless alternative provisions are approved by the Fire Chief.
 - e. Site plans of all lots must be submitted for review and approval by the Belgrade Rural Fire District.
 - f. A homeowners association shall be established and be required to maintain all interior subdivision roads, and participate with Minor Subdivision No. 161 for the shared maintenance of Dana Lane within that subdivision.
 - g. No lot owner may remove water or cause to be removed water from irrigation ditches without deeded water rights, and before any maintenance or improvements are performed on any of the ditches, the owner of the waterway must give written permission for the work to be done.
 - h. The homeowners association is responsible for the maintenance of the fire protection water supply.
 - i. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County.
6. A copy of the covenants shall be submitted to the Belgrade Planning Office. A copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office. Both submittals shall be 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall approve the covenants and certificate prior to final plat approval.
7. Fire and Road Impact fees shall be paid to Gallatin County in accordance with Gallatin County Impact fee regulations.
8. Any area of the subdivision disturbed during construction shall be seeded and controlled for noxious weeds. A Memorandum of Understanding shall be signed between Weed District and developer prior to final plat approval.
9. A copy of the final plat shall be submitted to the Belgrade Fire Department and the Gallatin County Road Department.
10. The road names must be approved by the Gallatin County GIS Department. The entire length of Dana Lane shall be 60-foot right-of-way, dedicated to the public, and be paved to County Standards.
11. Road name signs and Stop signs shall be installed as required by the County Road Superintendent or a bond must be posted with the Gallatin County Road Office to cover the cost of the signs.
12. All roadwork will need to be inspected and certified by a licensed engineer. The inspection and certification and a copy of the homeowners association by laws and covenants must be provided to the County Road Office in writing prior to final plat approval. A two-year written warranty must be provided to the County for required paving of County maintained public roads.
13. A detailed signage and drainage plan shall be submitted to the County Road Office for approval prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition.
14. Encroachment permits must be obtained from the Road Department for the new access to Airport Road.
15. An NFPA compliant fill-site approved by the Belgrade Fire Department shall be installed and operational prior to final plat approval.
16. 45 feet of Airport Road south of the centerline shall be dedicated to the public along the entire width of the subdivision.
17. The final plat shall contain statements that include the following language: Lots abutting irrigation ditches may have water rights as described in deeds. No owner may

remove water or cause to be removed water without deeded water rights. Irrigation ditches are hazardous to small children. 18. The final plat(s) shall show a maintenance easement of a minimum of 15 feet on one side, and 5 feet on the other side of the irrigation ditches or as required by the ditch owner consistent with subdivision regulations, and before any maintenance or improvements are performed on any the ditches, the owner of the waterway must give written permission for the work to be done. 19. During construction of the extension of Dana Lane the fence between Minor Subdivision No. 161 and Longhorn Estates be properly ended as approved by the Road Department. 20. The final plat shall show a 50-foot building setback from the highwater mark of Middle Cottonwood Creek (preliminary plat shows 35 feet). 21. The developer shall coordinate with the GIS Department and regarding road names and whether the east half of Dana Lane as shown on the preliminary plat should be renamed to eliminate confusion particularly for emergency service providers. 22. The Planning Board required that the developer arrange meetings with adjacent and nearby homeowners to present the subdivision, hear the neighbors concerns, and attempt to mitigate those concerns where possible. Said meeting(s) are required to take place prior to the County Commission's hearing to review the subdivision. If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval. The Planning Board was concerned about the horseshoe shape of Dana Lane and possible road naming confusion with emergency providers because of the extension of Dana Lane. They asked the developer to coordinate that with the GIS Department. The Planning Board also recommended that the developer arrange meetings with the adjacent nearby homeowners to present the subdivision and hear the neighbors concerns and attempt to mitigate where possible. Mr. Karp submitted Exhibit "A", 4 letters of correspondence (Christine L. Sabatini, Ralph and Gayle Nichols, John and Barbara Rohrer, and Barbara A. Mackie), noting 2 attached to the staff report. (Monica and Richard Breslford, Holly and Mike Fretwell). Concerns expressed were: lack of open space; density in relation to the densities of the adjacent Outlaw Subdivision; effect on the aquifer; wildlife; traffic; precedent being set by doing this type of density; groundwater; Middle Cottonwood Creek; and the fill-site. Mr. Karp made note that he was misquoted in Ms. Sabatini's letter. The letter states he told the Board that wildlife consisted of "a few straggly deer". He did not recall saying straggly, nor was he sure he knew what it meant. He stated that he quoted from the applicant's Environmental Assessment and although, he has been in the area many times he personally had never seen any deer on the property however; he did not doubt there could be deer that frequented the area. He also brought to the Commission's attention concerns about Gary France, the prior owner of this property chairing the Planning Board meeting due to unforeseen circumstances. The letter from Ms. Sabatini states that he voted, which Mr. Karp pointed out was incorrect. He stated that the Planning Board is set up as such that the Chairman does not vote except in the case of a tie and it was clarified before the meeting that Mr. France would not be voting. Mr. Karp defended the Planning Board's recommendation stating that it was consistent with how other subdivisions have been reviewed, adding that it was consistent with the Gallatin County Subdivision Regulations and State law. He disagreed with Ms. Sabatini's complaint that this subdivision should be sent back to the Planning Board because it did not receive a fair hearing. Commissioner Mitchell noted additional letters received from Martin and Lanette Dowd expressing the same concerns with density, wildlife, and aquifer and a letter from Bob and Carol Heidecker. The applicant's representative Lewis Burton with Gateway Engineering and Surveying, Inc. addressed the issue of overall density and Cottonwood Creek. He noted that two meetings were held with adjacent landowners in an effort to address their concerns. He did not believe this proposal was out of line with the area, pointing out that there was a transition away from the river with immediately adjacent lots being relatively small lots in Outlaw Country. Other issues were open space along the creeks and parkland. Mr. Burton noted that the developer agreed to leave the setbacks along the creek in its natural state and pointed out that it would have been the land dedicated for parkland should they have done so. Therefore he believed that they were not only leaving open space along the creek that benefits that purpose but also at the same time paying the fee for parkland. Mr. Burton stated that they were still in the discussion stage regarding fire protection noting that the use of fire wells was a possibility rather than a fill-site. He believed this would be a big advantage in this area as currently there was not a good firewater protection source. He stated that they were in agreement with all of the conditions except for condition #20, requiring a 50-foot setback on Middle Cottonwood Creek. They requested that it be changed to 35-feet because it is not an active stream and only runs periodically. The GIS Department recommended that the name Dana Lane remain for the full length. Mike Pollard, Managing Director of Longhorn Development commented that the parkland in the Outlaw Subdivision was a weed patch because it was a challenging task to upkeep. He preferred giving money in lieu of parkland. Public comment: James Mason (representing some residents of the Outlaw Subdivision North); Joe Sabatini (representing the four homeowners on Dana Lane); Kevin Olmstead (representing Springvale Home Owners Assoc.); Patrick Leiggi, submitted Exhibit "B", written testimony; Bob Heidecker; Sheldon McKamey, submitted Exhibit "C", recap of meeting with developers and those in attendance; Rikki Bushnell; Rod Becker, not available; Beth Merrik, submitted Exhibit "D", written testimony; John Plenke; and Doug Bundren. Developer Terry O'Neill stated that they had no plans of closing the Arnold Ditch. He stated if they go to individual wells they will also go to half-acre lots. Gary France clarified that he is not part of the ownership of this property however he

owns property to the east of this subdivision. Mr. France explained the circumstances that took place the night of the Planning Board hearing and pointed out that by being Chairman he could not vote therefore he did not vote. He confirmed that he would not benefit from this proposal. Public comment was closed. The following concerns were expressed during testimony: water quality, with possible leeching from septic systems into wells; effects on the aquifer; high density; increased traffic; setbacks on Middle Cottonwood Creek due to overflow and flooding; effects on wildlife and the wildlife corridor; who would be responsible for restoration of properties when cul-de-sac and utilities are extended; safety of children walking to Springvale Park; and problems with the closing of the Arnold Ditch and liability issues with fence to the west of that ditch. Testimony was not necessarily opposed to the subdivision and growth in the area however they urged consistency in dealing with density. Due to concerns expressed regarding the Planning Board hearing, it was requested that this preliminary plat be sent back for another hearing based on accurate information and an unbiased vote. In rebuttal, Mr. Burton noted that initially when the plat was put together the sale was not totally closed and clarified since then that Mr. France no longer owns the property. He pointed out that there would be an agreement made between the two subdivisions for the maintenance of Dana Road. He also noted it was their desire to leave Middle Cottonwood Creek as a corridor for wildlife, and that they would be happy to leave the irrigation ditch and provide whatever setback is required. Mr. Burton stated that they were not trying to suggest that park space was not good however, he pointed out the differences with a small park such as this would be with the Outlaw and Springvale Subdivision Parks and also with regard to maintenance. It was their belief that density was not inconsistent and that precedent was already set in this area. Commissioner Mitchell commented that the Springvale Park was not unusual as there were several county parks that are dedicated to homeowners association and the homeowners take it upon themselves to develop and maintain the park. She also pointed out that the cash taken in lieu of parkland goes into a fund, which is, then dispersed as a matching fund for development. It was noted that the Springvale Park is about one half mile from this proposal and there is no connecting trail. Commissioner Mitchell pointed out that the covenants appeared to be a work in progress. Mr. Burton agreed, adding that they would be finalized before final plat approval. Commissioner Mitchell expressed concern and pointed out that changes to covenants are generally done with preliminary plat approval. She also commented that the fire fill-site was not noted on the plat and that the 100-foot setback reduced the building area, which further impacts the density. Mr. Burton reiterated that they had not yet decided if they were going to use a fill-site or wells for fire protection. Commissioner Mitchell noted that the application-lacked responses to several of the letter sent out requesting a response for local services. Mr. Burton agreed, and noted since the application was submitted he has received some responses. Commissioner Mitchell reiterated the importance to having a complete application, noting a prior application that lacked information. Commissioner Vincent agreed that it puts the Commission in a difficult position given the prior hearing. Because there was no response from either the school or the Sheriff, Commissioner Vincent's main concerns were whatever impact might occur to an over pressed Belgrade School system and the Sheriff's Department in regard to police protection. He preferred to consider both issues before passing judgment. In response, Mr. Burton stated that the Sheriff did respond with his typical letter showing concern and suggesting fees to help provide service. Mr. Karp pointed out covenant (f) addressing the shared maintenance of Dana Lane with Minor Subdivision #161, which was required by George Durkin of the Gallatin County Road and Bridge Department. He suggested adding the following language to covenant (f): "A joint maintenance agreement between Longhorn Estates and Minor Subdivision #161 shall be reviewed and approved by the Road Office". In response to Commissioner Vincent's comments regarding the Belgrade School system, Mr. Karp believed that State law states that subdivisions cannot be denied based solely on its effect on educational impacts. Commissioner Vincent was aware of that, however it can be factored in. With regard to the response letters, Mr. Karp also pointed out that the subdivision laws state that the review cannot be held up for an agency that does not respond. He suggested tabling this proposal until the Commission had the opportunity to review some of those letters that came in after the fact. Further discussion took place regarding whether or not to proceed or continue the application. Mr. Karp confirmed they had at least a couple of more weeks with regard to the timeline. The Commission agreed to proceed. Commissioner Mitchell stated that she could not in good conscious support this subdivision; noting the density is a huge issue and for all the reasons alluded, such as the further reduced size of lots next to the ditches. She added that the lack of information definitely weighed into her concerns, but it was more than just the responses from the agencies, it was also the fact that the location of the fire fill-site was not determined and the covenants are a work in progress. She believed it was a huge problem when it comes to flooding because they already had to make a decision on a floodplain issue in the Outlaw Subdivision. She stated that the proposals to mitigate the impacts are not adequate. Commissioner Vincent concurred, basing his on a little different criteria. He believed the density was incompatible with the land use in the immediate area. He based the following comments in reference to State Statue 76-3-608, in regard to the impact, wildlife, and public health, safety and welfare. Noting that it was safe to assume that in a development of this size there would be any number of children in the subdivision that would need to attend school in the Belgrade school district, Commissioner Vincent stated that it would impact the

capacity of the school, and the ability of the school to deliver a good education to the children and also the taxpayers in that area. In regard to wildlife, it was clear given the testimony that there is significantly more wildlife activity in this area than the application would tend to suggest. In regard to public health and safety, pointing out law enforcement, he stated that the Sheriff submitted a letter making it clear on numerous occasions that he may not guarantee the safety of people of newly platted subdivisions due to the lack of personnel. Secondly under that same consideration, although it was not tremendously significant, the probability of flood that could damage person and property that exists in this immediate area. Also, under public health and safety, there would be exposed ditches immediately adjacent to this subdivision, which is dangerous to children. The traffic impacts onto Airport Road and subsequently onto the Frontage Road are a serious matter, which he believed was a very legitimate public safety issue. He did not like the idea of drilling wells a little bit deeper, in regard to water quantity and quality as there was no scientific data presented to show that would solve the problem in the short term or the long term. He stated that the lack of open space and a park is a real problem, because he put a lot of merit in the testimony that suggested if this subdivision does not have a park, the kids will go where park is and that would mean they would be traveling along Airport Road which is unsafe. **Commissioner Mitchell moved to deny the Longhorn Estates Subdivision, finding it does not meet all of the requirements set forth in State Statute and the County Subdivision Regulations, adding that the impacts due to increased density on water, traffic, open space, wildlife and other services have not been adequately mitigated. She added the Commission's comments as findings. Seconded by Commissioner Vincent, finding by not having a central system, the impacts of 27 individual systems given the topography of area and adjacent development, under public health and safety. He believed there could be an appropriate development on this site however this was the wrong development at the wrong place at the wrong time. Commissioner Mitchell stated that the county uses 8 trips per day per lot and that would be 216 ADT's added to Airport Road. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 11:47 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 25TH DAY OF MARCH 2003

The meeting was called to order by Chairman John Vincent at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock and, Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

MARCH 17, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Mitchell, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered approval of an asset disposal request for a copy machine from the Human Resources Department. Commissioner Mitchell made a motion to approve said disposal. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. The Commissioners considered approval of a budget transfer request from Justice Court. Commissioner Mitchell made a motion to approve said request. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. The discussion regarding the Facilities Manager's response to the capital project needs of the Detention Center was continued until March 26.

MARCH 18, 2003

- The Commissioners conducted regular County business.

MARCH 19, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Mitchell, Auditor Jennifer Blossom, Finance Officer Ed Blackman, and Commission Assistant Glenda Howze. The Commission discussed the funding of Eden/CSA user

training needs. It will cost approximately \$4,500 plus expenses to set up the securities, \$4,500 plus expenses to have crystal reports written, and \$5,700 plus expenses for training on crystal reports. The securities are the highest priority. Mr. Blackman stated that the funding for these items can come from two sources, 44% from the current IT budget (possibly up to 66%) to cover travel and training on crystal reports. Report writing can come from individual department budgets.

The Commissioners considered approval of an invoice submitted by the Bozeman Shelter Care Facility. No contract has been signed and no reports have been submitted. This item was continued until Monday, March 24 when more answers can be given.

Commissioner Mitchell presented a Phase III, IV change order G-6 for approval. Commissioner Mitchell made a motion to approve said change order. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

MARCH 20-21, 2003

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated March 20, 2003, in the amount of \$109,942.54.
2. Consideration of a Request for Common Boundary Relocation Exemption for Samuel and Cynthia Nelson and Graver and Amy Johnson, described as Lot 35 of COS 518 and Lot 34B-1, located in the SW ¼ and SE ¼ of Section 24, and NW ¼ and NE ¼ of Section 25, T2S, R6E, PMM, Gallatin County, Montana. Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Mortgage Survey Exemption for Thomas and Susan Ward, described as a portion of Tract 2 of COS 2350, located in the SE ¼ and SW ¼ of Section 3, T2S, R4E. (7915 River Road) Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Murdock read the consent agenda. Gallatin County Planner Victoria C. Drummond noted that consent agenda Item #2, was part of regular agenda Item #8, public hearing and consideration of a request for a family transfer exemption for Nelson. She requested that they be heard simultaneously on the agenda. **Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Sarah Helfrich, a member of the Education Committee for the Gallatin Valley Land Trust reported on the public hearing and consideration of approval to improve Wildlife Habitat, Stream Restoration, and Trail Improvement in or near McLeod Park. Working with Ms. Helfrich is Gary Vodehnal, head of the Trails Committee and seventh grade students of the Sacajawea Middle School. Student Jacob Tengelsen explained that the team was working on a service grant that Jennifer Royal, a seventh grade teacher applied for and received from the Milken Foundation to work on a community service project in Bozeman. The grant was divided into 3 parts: They made an education video on trail etiquette; provided senior citizens assistance; and proposed to work on McLeod Park. Students from Sacajawea Middle School each spoke in detail on trail work; stream restoration and birdhouses; parking improvements and fencing; and the permission to proceed. In order to achieve their plans, they asked that the County help by lending dump trucks to carry the gravel and dump it in the trailhead parking lot. The total cost for the park improvements will be about \$1,600. They have already received \$500 from a member of the Sundance Springs committee. The Gallatin Valley Land Trust and stream restoration specialists from the area will help with planning and implementing this project. Mr. Vodehnal explained that the money would be raised through the grant or the Sundance Homeowners Association. The Commission assured Mr. Vodehnal that the Road Department would be glad to help. Commissioner Mitchell asked if they would be going through DNRC because of the stream. Mr. Vodehnal confirmed that they would have all their permits in place before proceeding. **Commissioner Murdock motioned to approve the project as presented by the students of the Sacajawea Middle School and thanked them for their hard work. Seconded by Commissioner Mitchell, adding to the motion with the visual consent of the Road Department they would direct them to do whatever in-kind labor or materials they can provide. Commissioner Murdock amended the motion to include the help of the Road Department. Commissioner Mitchell amended the second. None voting nay. Motion carried.**

James Goehring, Superintendent of Facilities and Land reported on the public hearing and consideration for Commission approval to complete a Master Plan on McLeod Park. The Recreation and Parks Advisory Board for the City of Bozeman is negotiating a Scope of Services contract for a Park Master Plan for Tuckerman Park and Gardner Park. The Board discussed the inclusion of McLeod Park in the master planning process. Because McLeod is a county-owned park they wanted to secure the Commissions permission and endorsement before including it in the scope of the contract. Further discussion took place with regards to the possibility of deeding it to the city. Mr. Goehring explained that the scope of services they have is for around \$6,000 for the consultant work on all three parks. They are requesting \$1,000 from the County to be applied to the cost of the master plan process. There was no public comment. Gallatin County Finance Officer Ed Blackman stated that the County Park Fund has funds set aside as reserves for future needs. Commissioner Murdock suggested they start negotiations with the City Council for the process to deed the park over. Gallatin County Attorney Marty Lambert commented on the process, noting that it would have to be followed. **Commissioner Murdock moved to expend \$1,000 on the project as presented by Mr. Goehring, with the source of county funding to be determined by Mr. Blackman.** Commissioner Mitchell stated that she would second the motion if it included a date certain to work this out with the City for a final resolution. Commissioner Murdock did not disagree however he did not want to tie in the \$1,000 for this project with that process. **Seconded by Commissioner Vincent. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

One vacancy exists on the Gallatin County Airport (Progreba) Board due to the term expiration of Jim Laird. This position is for five years and will expire March 4, 2008. Mr. Laird was notified and indicated a desire to be reappointed to the board. One additional application was received from Cynthia Garrity. While Ms. Garrity appears to be highly qualified to serve, the Board could not see any reason to not reappoint Mr. Laird who is a valuable member. There was no public comment. **Commissioner Mitchell moved to re-appoint Jim Laird. Seconded by Commissioner Murdock. None voting nay. Motion carried.** Three vacancies exist on the Search and Rescue Advisory Board due to the term expirations of Travis Thorson (Gallatin County Posse), Scott Dreblow (Headwaters Paddling Association), and Donald Wilson (Gallatin Ham Radio Club). These are three-year terms, with Mr. Thorson and Mr. Wilson's positions to expire on June 30, 2005, and Mr. Dreblow's position to expire on June 30, 2004. All members were notified; Mr. Dreblow is no longer interested in serving. Mr. Thorson and Mr. Wilson are both representatives of their respective organizations, and these organizations have recommended their appointment to the board. To date, no additional applications have been received for the positions with the above referenced agencies. There was no public comment. **Commissioner Murdock moved to appoint Travis Thorson, as the representative for the Gallatin County Posse and Donald Wilson for the Gallatin Ham Radio Club. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on receipt to abandon a portion of Buffalo, Horn Road. The Trust for Public Land submitted the petition to abandon a portion of Buffalo Horn Road, located near the 320 Ranch Inc. with the possibility of relocating access to public lands. Ms. Vance examined the petition and certified pursuant to Section 7-14-2601 MCA, that it contains the signatures of at least 10 qualified freeholders within the county. There was no public comment. Commissioner Murdock pointed out that this road abandonment request is part of a solution to a land swap with the Forest Service and some private ownership of the Taylor Fork and other places. **Commissioner Murdock moved to appoint a viewing committee to consist of Ms. Vance and himself, and to accept receipt of the petition. Seconded by Commissioner Mitchell,** adding that the county's abandonment would be conditioned on the 320 Ranch Inc. granting a road easement to the Forest Service and the bridge will be constructed to Forest Service standards. The county would not be responsible for incurring those costs. **None voting nay. Motion carried.**

Dave Fowler, on behalf of the Gallatin County Road and Bridge Department reported on receipt and opening of bids for a loader-2003. Two bids were received as follows: RDO, Billings - Total bid \$175,000; and Tractor & Equipment, Billings - Total bid \$177,823. RDO representative, Chut Sharbano requested that trade in values be read. Mr. Fowler requested a couple of weeks to review the bids, adding that they have not read the trade in values in the past. Gallatin County Attorney Marty Lambert confirmed that all they needed to do was open the bids and set a date for recommendation at this time.

Commissioner Mitchell stated that it should be revealed if it was part of the bid package and requested. Commissioner Murdock disagreed. The Commission accepted the bids. The bid recommendation was continued until April 8, 2003. **No action taken.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution of intent to amend the Public Safety FY 2003 Operating Budget to include new revenues in the amount of \$93,676 to cover expenses of an additional sheriff deputy in Big Sky. Sheriff Jim Cashell spoke regarding the process to fund the additional sheriff deputy. There was no public comment. **Commissioner Murdock moved to approve Resolution of Intent #2003-026. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the public hearing regarding the availability of funding through the Community Development Block Grant (CDBG), HOME Program, and the Community Transportation Enhancement Act (CTEP) Program. This is the first of two public hearings to retain Gallatin County's eligibility for application for CDBG and HOME funds. The second hearing will be held April 22, 2003. This hearing will call for a presentation of any proposed Economic Development projects and provide an opportunity for public comment on the application to be presented to the Montana Department of Commerce. Montana's total CDBG allocation for 2003 is \$7.8 million dollars. There are four CDBG funding categories (Economic Development, Housing, Public Facilities, and Planning Grants (Housing/Public Facilities)). In 2003, MDOC also made available \$225,000 in Economic Development Technical Assistance Grants. Housing applications for FY 2004 grants are due October 17, 2003. In 2003, eligible entities can apply for up to \$400,000 in funding to complete their projects. Applicants can apply only for the money needed to complete a specific project. Projects require matching funds of 25% of the amount requested. In 2003 approximately \$1.5 million dollars are available in the Montana CDBG Housing Project category. The application deadline for the 2003 Public Facilities Program is May 23, 2003. This year communities can apply for up to \$500,000 in funding to complete their projects. Applicants can apply only for the money needed to complete a specific project. Projects require matching funds of 25% of the amount requested. Cities, Towns and Counties are eligible to apply for Public Facilities funding. Non-Profits may develop projects through Inter-Local agreements with an eligible entity. In 2003 approximately \$3.3 million dollars are available in the Montana CDBG Public Facilities Category. The Economic Development category is treated separately from the other two CDBG programs. A designated amount of money is set-aside in this category each year. Once that amount is identified, applications are made at anytime throughout the year until all of the money has been committed. FY 2003 applications will be accepted after April 1, 2003. In 2003, the Montana CDBG Economic Development category is funded at \$2.57 million dollars. Loans will be given at approximately 5% interest with a maximum term of seven years. Another category within the Economic Development Program is Customized Training of Employees. CDBG Grant funding is also available for employee training. Employee training is a stand-alone project activity that allows a maximum of \$400,000 in grant funding per local government per year in combination with CDBG loans. The maximum amount for each employee trained is \$5,000. Local officials have expressed concerns that the up-front costs of preparing local needs assessments, housing studies, or preliminary engineering plans present a serious obstacle for many communities who want to apply for CDBG assistance. The CDBG program is able to play a unique role in assisting Montana communities because of its ability to offer Technical Assistance/Planning Grants to local governments. The grants can be used for a variety of planning activities including the initial planning necessary to get a project underway, or to conduct other important planning activities such as preparing or updating a comprehensive plan or growth policy, preparing a neighborhood redevelopment plan, a housing study, capital improvement plan, or similar planning processes needed to help a community address critical needs. Currently, CDBG plan matching grants are available in amounts of up to \$20,000. Under current guidelines, local governments must provide a 50-50, dollar for dollar, match that must be firmly committed by the time CDBG funds are released. Firm loan commitments, such as funds borrowed from the Montana Board of Investments or from a local bank, are acceptable forms of match. Grants or other cash contributions from other local, state, or federal programs or private foundations are also acceptable as match. In addition, for the year 2003, local governments may substitute "in-kind" services for cash match, as long as the value of the match can be adequately documented. Applications related to water, sewer, and solid waste facilities can be coordinated with preliminary engineering loans available through the INTERCAP Program of the Montana Board of Investments. The Montana Department of Natural Resources and Conservation (DNRC) also administers a matching grant program to assist local governments, and water and sewer districts, in preparing preliminary engineering studies related to water and sewer systems. Because of the availability of new funds from the Treasurer State Endowment

Program, the CDBG program will fund preliminary engineering studies related to water, sewer or solid waste projects or bridges only as a last resort. The application deadline for Technical Assistance/Planning Grants is April 25, 2003. Each year Gallatin County receives an annual allocation of \$140,000 from the Community Transportation and Enhancement Program. The existing reserve from a previous program year is \$34,424. The total balance is \$209,174. It is advised to hold 15 percent of that amount in contingency for cost over runs or change orders on projects. Total allocation balance estimate \$177, 498. These projects require a 13.4 % non-federal match. Projects must be located on existing public property or property procured for public use. Project Administration, staff salaries, and Project Development funding not provided. Post application administrative costs are useable as a match. Projects must follow the competitive bidding process. Projects must be maintained for as long as they remain in the system. Mr. Watson read a list of eligible project categories. Applications are due by the end of May 2003. Public hearings/application review on April 22, 2003. He added that there were projects under every category. Jeff Rupp, on behalf of the local HRDC spoke regarding the communities effort as it relates to affordable housing. They have been working with a variety of community partners to structure a homebuyers assistance program for lower and moderate-income households in Gallatin County. They are asking Gallatin County to help with submitting a CDBG for homebuyers. Mr. Rupp went into detail about the grant and how the program will work. **No action taken.**

Commissioner Vincent announced that regular agenda Item #14, continuation of a public hearing and consideration of a request for preliminary plat approval of the Riverfront Park Subdivision has been continued indefinitely.

Gallatin County Planner Victoria Drummond reported on consideration of a request for a common boundary relocation exemption for Samuel and Cynthia Nelson and Graver and Amy Johnson, described as Lot 35 COS 518 (26.818 acres) and COS 518L (16.891 acres) located in the SW ¼ and SE ¼ of Section 24, and the NW ¼ and NE ¼ of Section 25, T2S, R6E, PMM, Gallatin County, Montana. Ms. Drummond provided an overhead visual of the current configuration and the proposed boundary relocation. She provided a brief summary of the staff report regarding this proposal, noting the boundary relocation is the first step in preparation for a subsequent family transfer exemption request filed at the same time. The boundary relocation is to facilitate a family transfer in both lot configuration and ownership. The boundary relocation is not a stand-alone exemption, but a part of the family transfer so much so that if the subsequent family transfer is denied and the boundary relocation is approved, the boundary relocation will not be filed. The family transfer for Samuel and Cynthia Nelson is proposed for Lot 35A (39.964 acres-5100 Bozeman Trail Road) and Lot B (3.750 acres-5280 Bozeman Trail Road). The use of the family transfer exemption is only possible due to the preceding boundary relocation and Quit Claim deed by the daughter and son-in-law, owners of the lot and dwelling prior to the boundary relocation exemption. She noted that it was not clear whether this claim meets the criteria for the exemption to Subdivision Regulations allowed under the Montana Subdivision and Platting Act. Commissioner Murdock suggested going through the question process for the family transfer request with the applicant first and if satisfied they could motion to approve both simultaneously. Samuel Nelson was sworn in and testified under oath answering questions to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Mr. Nelson went into further detail with regards to ownership of the lots. Graver Johnson and the applicant's representative Ron Allen helped clarify the proposed submittal and ownership. It was noted that ownership of the dwellings was not going to change. There was no public comment. Commissioner Mitchell believed this family transfer request and boundary relocation request was strictly for the family and as long as they are willing to go through sanitation review she was satisfied. **Commissioner Murdock moved to approve the Nelson family transfer as presented and the relocation of common boundary as presented, with the finding that it meets the exemption criteria per law and the Gallatin County Subdivision Regulations. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Mike Harris, Open Lands Board Coordinator reported on the public hearing and consideration of authorization of expenditure of funds in the amount of \$350,000 from the Open Space Fund for the purchase of a conservation easement on 1550 acres more or less on property located at 9765 Dry Creek Road for Wallace and Patricia Brownell. On March 10, 2003, the Open Lands Board unanimously voted to give Level One approval. The estimated value of the development rights being purchased is \$1,440,000 and the appraised value of the real property is \$3,100,000. The Trust for Public Lands, The Gallatin Valley Land Reliance and the Brownell family are asking for \$350,000 in funds from the Open

Space Bond. The County will be providing 24 percent of the total value of the easement. The other 76 percent will be provided by other public and private sources. Further discussion took place with regard to the Farmland Protection Program. Jim Madden with Gallatin Valley Land Trust on behalf of the Brownell's stated that the family resides there and they lease the ground out for agricultural production. He spoke regarding the reserved rights retained by the family, noting there are two existing homes on the easement property of which they will be allowed to stay. There will be no additional homes. There will be a 10-acre building envelope around each home site. Mr. Madden pointed out that this is in addition to the deed-restricted acreage that is to the north of the easement property, noting there is a fair amount of protected property in that area. Discussion took place with regards to the fact that this conservation easement comes down to the Dry Creek Road near development that has occurred in that area. Mr. Harris pointed out that the Brownell's have been working with Fish, Wildlife and Parks and have agreed to a small amount of public access for bird hunting however it will not be permanent and is not tied to the easement. Public comment: Phil Olson, member of the Open Lands Board commented on the Boards decision to vote unanimous approval. **Commissioner Mitchell moved to approve the application for funding for the Brownell proposed conservation easement. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Vincent announced that there would be a change in the order of the agenda. Regular agenda Item #13 would be heard next.

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a request for Mike Scholz for an extension of the preliminary plat approval for the Buck's T-4 Mobile Home Park Subdivision. Preliminary plat approval was granted on October 5, 1993, which has since expired. This subdivision was created by rent or lease for a five-unit mobile home park to accommodate employees for Buck's T-4 hotel. The applicant requested that the Commission grant an extension of the preliminary plat approval period, and allow sixty days to complete the requirements for final plat approval. Mr. Johnson met with Mr. Scholz and reviewed the two outstanding conditions that have to be completed for this application, and Mr. Johnson stated that they are fairly minor and it was his understanding that they have been completed. There was some miscommunication due to a member of the Planning staff leaving and also due to the applicant's engineer relocating to Missoula. Mr. Johnson noted that the Planning Department was satisfied. Mike Scholz commented on the procedural gaps that caused the miscommunication. There was no public comment. **Commissioner Mitchell moved to grant the Buck's T-4 Mobile Home Subdivision an extension for 60 days, adding that the reasons were adequate. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Brian Close, Chairman of the Public Task Force reported on the public hearing and consideration of approval of the Public Transportation Study Contract. A joint meeting was held with the City in January to review the transit report. One of the recommendations was to do an additional level of study, essentially a needs assessment. The Transit Task Force established what a transit system would cost however they did not have the resources to survey the public or analyze some of the data on potential rider ship groups. This is follow up to do the needs assessment so the entire community can make an informed decision on whether to proceed with public transit. Mr. Close is working on an Inter-governmental agreement and will submit to the City Attorney. The total contract cost is \$46,000 of which he expected the City would be willing to pay half, if the county pays half. It was determined that transit in this central valley is a regional problem. Lisa Ballard, research engineer with the Western Transportation Institute provided an overview of the proposal; objectives; management and methodology; and work plan. She spoke in detail about the six tasks of the Work Plan as follows: Establish a City-County Stakeholders' Board; Outreach; Public Survey; Interim Report; Technical Assessment; and Final Report. If there is a decision to move forward they will be asking for \$14,000 to provide General Stakeholders' Board support. The purpose of the proposal is to continue gathering and analyzing information required to implement a public transportation system in the Gallatin Valley. They are looking to complete this study by August followed by a decision of whether to place an initiative on the November 2003 ballot. Further discussion took place regarding what might take place should the survey yield no support for this proposal. Commissioner Mitchell commented on priorities for the County. There was no public comment. City Commissioner Jarvis Brown stated that the city had taken the initiative in forming this study committee. If they go forward and the next step is favorable they would recommend a formation of the Uniform Transportation District, which can only be done by the County. Mr. Close explained the process in forming the UTD. Mr. Jarvis explained one option was to form a municipal bus system that would have been run by the City of Bozeman however after a thorough study the committee found that was not the most viable option. The recommendation of

the committee was that it be an urban transportation district. Commissioner Vincent stated the critical component for him was Task 2 and 3, Outreach and Public Survey. He did not want to commit until he was confident that the outreach and public survey specifically addressed all his questions. He wanted to know whether or not the public felt a system is preferable to the expansion of existing or flexible transit services. He wanted the public to be able to consider and study options before making a commitment to a system. He thought the public was entitled to realistic projections of any level of subsidies. He was especially concerned about subsidies that would be covered by city and county taxpayers. He also wanted to look at data relative to rider ship and a level of usage. He requested to look at the survey before it goes out to make sure it is asking the questions he feels they need to be asked in order to find out how the public feels about this issue. Mr. Close replied that the issues raised by Commissioner Vincent were also his primary concerns for this project so everyone will know what this will cost. He was in agreement to making it a condition that the County Commission review surveys before sending them out. Commissioner Murdock concurred with Commissioner Vincent and pointed out that they were not here to proceed in creating an urban transportation district or make a decision of whether or not they should have a bus system. Commissioner Mitchell felt the process and the plan needed the consensus of both the city and the county. She pointed out several issues at the county level that are going to be expensive and noted that a transportation system like this has never been anything anyone has requested. She was not sure they are ready for a transit system and was reluctant to spend money on something they have not put into their priority list. Commissioner Murdock suggested Mr. Close take the concerns of the County Commission and prepare a scope of work and a contract and submit it for review. Commissioner Murdock was in agreement with the feasibility study and expressed his approval, noting that possibly they could fund half this year and half next budget year which would be contingent upon the city. Mr. Close agreed except to note that putting this off in terms of the start date would make it difficult to complete data needed in order to have public hearings in August. He hoped they could work on it in the next 2 to 3 weeks. Commissioner Vincent preferred to move as quickly as possible however he believed Commissioner Mitchell raised a legitimate point because they do not know what actions the legislature is going to take that will directly effect the finances of the county. He did not think it would be responsible to take action now until after the legislature actions. He stated that he could commit to the goal, the objective and the dollar amount assuming the City follows through. He also wanted to look at the contract in terms of whether there was language that allowed them to take a look at the questions to make sure they were producing the full spectrum for public input and opinion. Gallatin County Fiscal Officer Ed Blackman pointed out that even if the voters approved it in November the soonest any funds would be available would be next November. He also pointed out that they may not be able to call for an election in November if the law goes through that is currently being proposed. Commissioner Murdock reiterated that they come to the Commission with a proposed contract and scope of work and place it on the agenda for May 6, 2003. Mr. Close stated they would proceed with the cities share of this contract from a logical and procedural standpoint so they can get this moving forward although they will include the county in the loop before May 6th on surveys and input. **No action taken.**

Gallatin County Planning Director Jennifer Madgic reported on consideration of final plat for the Shakira Amended Plat of Lot 10. Preliminary plat approval was granted February 26, 2002. Approval of the plat was subject to six conditions that have been completed. The applicant's representative Ray Center, Rocky Mountain Engineers confirmed that the applicant has met all of the conditions of preliminary plat approval. There was no public comment. **Finding that the Shakira Amended Plat meets all the terms of final plat approval as recommended by staff, Commissioner Murdock moved for approval. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for Douglas E. Daniels, Daniels & Associates, Inc. on behalf of Bluejacket Ford LLC for preliminary plat approval for the Pass Creek Community Center Minor Subdivision, described as a tract of land located in the NE ¼ of Section 33, T3N, R5E, P.M.M. Gallatin County, Montana. The property is generally located at the intersection of Rocky Mountain Road and Pass Creek Road. The property is not located within a zoning jurisdiction. The request is to subdivide a presently 161.55 acre property, into one 1.55 acre tract being created for the Pass Creek Community Center and a remainder of 160 acres. The applicant is proposing an individual well for the water supply. Sewage disposal is to be served by an individual septic system. The property is owned by the Bluejacket Ford LLC, which intends to donate the proposed tract to the Pass Creek Community Center Association. The Pass Creek Community Center Association (Dick Morgan, President) intends to use the proposed 1.5-acre parcel to establish the Pass Creek Community Center. The Community Center intends to provide a place to allow for community gatherings and meetings for social and recreational purposes and also for governmental

purposes such as public hearings and voting. Mr. Scott briefly outlined the Gallatin County Plan Review relative to the Gallatin County Plan and staff findings including: surrounding land uses; topography/natural resources; sanitary review; park dedication; roads/access; and utilities. It was pointed out that the proposed subdivision is outside of a fire district. The proposed tract is not directly adjacent to any fire district. However, the current property owner of the subject property and the adjacent properties is contiguous to the Belgrade Rural Fire District. Section 6E. of the Gallatin County Subdivision Regulations states that a subdivision that is not located in a fire district or fire service area, one of the following alternatives shall be met: 1. If contiguous to a fire district or fire service area, annex to the district or area. 2. If the annexation is unsuccessful, contract for fire protection service or form a new fire district. 3. Or other reasonable protection as recommended by the fire chief or a designee or the fire district and approved by the Commission. The Belgrade Rural Fire District is requiring the applicant to annex. The Belgrade Rural Fire District also is requiring the applicant to submit a detailed plan of the Fire Protection Water Supply for review and approval. The Fire Protection Water Supply shall meet the standards that the Belgrade Rural Fire District has accepted as the minimum and that are required by the Gallatin County Subdivision Regulations. Mr. Scott briefly summarized the primary criteria for the Commission to evaluate for considering the subdivision. The County Commission needs to make the following determinations: 1. A determination as to whether or not the application complies with the Gallatin County Plan; 2. A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and, 3. A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves of this application, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2. of the Gallatin County Subdivision Regulations. 4. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 5. The Gallatin County Commission shall approve annexation of the subject property to the Belgrade Rural Fire District. 6. The subdivider shall obtain written verification from the Fire District that the required water supply and other requirements of the fire district have been met. 7. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 8. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 9. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 10. The subdivider shall obtain an encroachment permit from the County GIS or Road office for any access points coming off of County maintained roads. Lot A shall be limited to one driveway access, which shall be at least seventy-five feet (75') from the nearest intersecting County road. 11. A "no access strip is required along all lot boundaries that border County maintained roads, with exception of an approved encroachment permit. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and the obtaining of an encroachment permit from the County road office. 12. Thirty feet (30') of Rocky Mountain Road west of centerline, and thirty feet (30') of Pass Creek Road south of centerline will need to be dedicated to the public for the entire length of the development. 13. All areas of the public right of way disturbed during construction activities must be sodded or reseeded. 14. Applicant shall record the following covenants on or with the final plat: a. *The control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b. *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from Gallatin County, the County may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* c. *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that*

standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. d. All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. e. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for the pertinent Seismic Zone. f. The artificial feeding of all big game wildlife shall be prohibited. g. All garbage shall be stored in animal-proof containers or be made unavailable to animals. h. Owners acknowledge that wildlife damage to landscaping and other property may occur. i. Pets shall be controlled by each homeowner, and not allowed to roam at large. j. All lot accesses shall be built to County standards as specified in Section 7.G.2 of the Gallatin County Subdivision Regulations. k. Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.

15. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Any and all improvements agreements. b. Certificate of a Licensed Title Abstractor. 16. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 17. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. The applicant's representative Doug Daniels spoke regarding the background and ownership of this property. He stated that Bluejack Ford preferred not to annex into the fire district at this time and technically this subdivision is not adjacent to the fire district. The Pass Creek Community Center would like to pursue the possibility of a contract for fire service so long as it is at a reasonable price. The applicant also requested that they not be subjective to the Fire Impact Fees, due to hardship and requested a waiver of fire impact fees. The requirements for the fill sites and or the sprinkler system within the building will create another hardship for the community center due to costs. There was concern with regard to Road Impact Fees because it was felt that the site in itself does not generate additional traffic. They believed it would have more of a tendency to reduce traffic by local people traveling elsewhere to have necessary meetings or community involvement. To clear up some confusion, Mr. Daniels confirmed that these conditions apply just to the 1 acre tract rather than the 160-acre remainder tract. He requested to strike the requirement to annex these parcels and the adjacent parcels to make it contiguous and that they be allowed to proceed with a contract with the Belgrade Fire District. He preferred that condition #12 be worded as an easement rather than a dedication. Surveyor Ron Allen confirmed that they included a dedication on the plat in which they specified they were granting road easements. Further discussion took place regarding the waiver of fire and road impact fees and fire protection options. Gallatin County Planning Director Jennifer Madgic confirmed a variance request would be required to waive any sort of fire protection and a waiver would be requested from impact fees. Commissioner Murdock supported the requested road and fire impact waiver, although he noted there is a waiver process. Based on the language change to condition #5, Commissioner Murdock suggested they strike condition #6. Gallatin County Attorney Marty Lambert confirmed there are three alternatives: contract; annex; or create your own fire district, adding that the Commission may require the applicant do one of the three. Ms. Madgic suggested the following wording for condition #6- The subdivider shall provide adequate fire protection in accordance with the Gallatin County Subdivision Regulations. Dick Morgan commented that the law states you have to be adjacent to the fire district of which they are not, so he questioned the annexation option. Mr. Lambert stated that the Commission could not require Belgrade Rural Fire to enter into a contract. Commissioner Murdock believed that it was an option in the Subdivision Regulations. Mr. Lambert stated it was however the District is going to have to agree to contract with the Pass Creek Community Center. Commissioner Murdock pointed out that this is a condition of approval for the Pass Creek Community, and they are not requiring the District to contract with them. Mr. Lambert reiterated that the Commission could not force them to contract. He suggested they go with the three and let them pursue the best option. Commissioner Mitchell stated they could strike condition #5, and leave #6 with the language as suggested by Ms. Madgic. After further discussion regarding the wording of the conditions Mr. Lambert confirmed the following changes: Strike item #1 on page 5, "A determination as to whether or not the application complies with the Gallatin County Plan", of "Staff Suggested Action"; change condition #5- The subdivider shall provide adequate fire protection in accordance with the Gallatin County Subdivision Regulations; strike condition #6; and because the applicant wanted to assure the conditions only applied to the 1.55 acre tract the following changes were suggested for conditions #11- "A "no" access strip is required along Lot A that borders County maintained roads, with exception of an approved encroachment permit"; and condition #12 "Thirty feet (30') of Rocky Mountain Road west of centerline will need to be dedicated to the public or an easement granted to the public for the entire length of Lot A". Mr. Morgan questioned if the preliminary plat would be in violation if Belgrade required conditions that they could not comply with in the contract. The Commission suggested that perhaps if necessary the Commission could mediate with the Belgrade RFD.

Commissioner Mitchell moved to approve preliminary plat for the Pass Creek Community Center

Minor Subdivision, finding that it meets all the legal criteria in the Subdivision Regulations and State Statute, and with all the conditions as amended by the County Attorney. Seconded by Commissioner Murdock, finding it has met the requirements of the Montana Subdivision and Platting Act and complies with the Gallatin County Subdivision Regulations. None voting nay. Motion carried.

Gallatin County Planning Director Jennifer Madgic reported on the consideration of a resolution of intent to adopt, revise or reject the Gallatin County Growth Policy. There are no publication requirements for Commission hearings for the Growth Policy however notice was published. Ms. Madgic covered the following changes: page 3, add to Compact Communities chart-Open Space, Rangeland, Wildlife habitat and Agricultural lands; page 5, suggested adding language that includes today's hearing and to review within 6 months; page 17, add suggestion of Mark Evans to include another study. It was Ms. Madgic's suggestion that they invite the author to Bozeman to give her presentation in the next 6 months and include the study afterwards. It was noted that Mr. Evans would be notified of the plan. In Chapter 3, they directed all of the conditions towards developers, and took away the regulatory types of language, such as "require" and used "encourage, support or insure". She noted an error under 3.14, (3) Health and Safety that should read: Require development to demonstrate freedom from flood hazards. Restrict development in flood hazard areas to protect property and life from flooding. Ensure compliance with the Floodplain Regulations and the standards developed by the Department of Health.; Noted changes to 3.15 Agriculture, due to concern with the use of the word conservation; page 33 Chapter 4, pointed out the Planning Hierarchy chart, noting that the Growth Policy is not going to be used in reviewing subdivisions. It was noted in 4.3 Neighborhood Plans, that they would be encouraging a minimum of one square mile to be used for neighborhood plans and establishment of zoning districts, they are not going to require it. Ms. Madgic struck "Conform to Growth Policy & Plans" in Chapter 5, on page 39. She noted that they would have to take the policies from the Growth Policy and work them into the Subdivision Regulations. Ms. Madgic pointed out on page 41, Section 5.1 Criteria definition, the bulleted items they are including but not limited to. Section 5.4 Concept Review of Alternative Pre-Submittal Plans, pages 43 and 44- changed The County Commission is required by state law to issue a decision on the application within 35 working days. In accordance with state law, the County Commission is required to issue a decision on the application within the statutory timeframe. Section 6.2 Zoning, page 47, changes to 101 districts. Chapter 10: Land Use Diagram, pages 64 and 65, struck conservation category. Pages 66 through 73, changes to glossary of issues not referred to within the County Plan. Ms. Madgic pointed out that this Growth Policy is accompanied by resource documents and has been available since March 14, 2003 through the Planning Department. There was no specific comment received since the last public hearing. Public comment: Phil Olson provided 2 documents, labeled Exhibit "A", a letter from the Manhattan State Bank and a printout of the National Agricultural Statistics. He spoke regarding land values and suggested adding the following goal to 3.17: Goal 3- "Protect farm and ranch land value". Under the policy for the goal: 1. Insure that no regulations, policies or plan adopted by the County reduce the free market value; and 2. Adopt density rights in the Hargrove Cluster Bill concept to try to help preserve those rights. Mark Haggarty on behalf of the Greater Yellowstone Coalition addressed changes to the Growth Policy suggested by Ms. Madgic and Mr. Olson, noting some suggestions, issues of concern, and agreement. Jim Madden encouraged the Commission to promote as much public participation as possible. Further discussion took place with regards to whether or not the amendments suggested today could be incorporated into the policy or if additional time was needed. Gallatin County Attorney Marty Lambert clarified that the amendments suggested today could be incorporated although he suggested if the resolution of intention was passed that they not enter into a drafting situation. Commissioner Vincent suggested they could close the public hearing and continue executive action for one week in order to make sure they are prepared to approve the resolution of intent. Further discussion took place with regards to allowing time to consider the process and procedures needed for adding incentives. Mr. Haggarty made suggestions for planning practices adding that the Commission could include things that are not yet in place. Mr. Olson commented that the goal he proposed does not preclude taking land value away for public health and safety reasons. He stated the goal he recommended could not be considered. Mr. Lambert recommended closing public comment if the Commission chose to continue consideration until next week, adding that they could still adopt the final resolution on April 15, 2003, as planned. Commissioner Vincent suggested they close public comment and continue consideration until next week. After further discussion, Mr. Lambert suggested that Commissioner Vincent consider setting deadlines by which all proposals have to be drafted. **Commissioner Mitchell moved to approve Resolution of Intention #2003-027. Seconded by Commissioner Murdock.** Commissioner Mitchell preferred to consider the suggestions made by Mr. Olson, Mr. Haggarty and Mr. Madden at the 6-month review. She also wanted to work on the incentive part of the program. Commissioner Murdock concurred, and clarified that it now explicit that they want the Planning Department to work on the Subdivision Regulations. Commissioner Vincent was opposed to the motion, because he believed it

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would be preferable to end public comment and review and consider the amendments next week. However, it was his intention to support the Growth Policy Plan. **Commissioners Mitchell and Murdock voting aye. Commissioner Vincent voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 2:20 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 1ST DAY OF APRIL 2003

The meeting was called to order by Chairman John Vincent at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

MARCH 24, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered approval of a contract with Terrell's Office Machines for maintenance on the County Planning Department's copier. Commissioner Mitchell made a motion to approve said contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners discussed payment of an invoice to Bozeman Shelter Care Facility, Inc. in the amount of \$23,907.33. Commissioner Murdock made a motion to approve said invoice. No second was made. In discussion Commissioner Murdock explained that the Criminal Justice Coordinating Council is evaluating the Shelter Care program, and there is an ongoing update in that venue. He noted that this issue needs to be dealt with through the budget, and if they aren't living up to their contract, that needs to be addressed as well. Commissioner Mitchell explained that there is no signed contract and that this is the issue she has with approving the payment. Commissioner Vincent stated that he is not comfortable with paying the invoice without a contract or explanation of why there is no contract. Commissioner Murdock withdrew his original motion. Commissioner Murdock made a motion to write a letter to Bozeman Shelter Care asking them to meet with Deputy County Attorney Kate Dinwiddie, Grants Administrator Larry Watson, and Chief Youth Probation Officer Vicky Nelson to iron out the contract difficulties prior to payment of the invoice. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

Discussion took place regarding the creation of the Parks and Trails Task Force. Commissioner Murdock suggested that appointments to the board take place at the public meeting on the 1st of April. Commissioner Mitchell stated that she would like to see the make up of the board outlined, as well as their direction determined prior to appointments being made to the board. Commissioner Murdock explained that there are applicants from most all areas of the county, excluding West Yellowstone and Big Sky as they are creating their own districts, and that the Commission could attend the first meeting of the board members to make the other determinations with them at that time.

Commissioner Mitchell requested approval of a bid for renovation of the Courthouse revolving door in the amount of \$23,538.00. Commissioner Murdock made a motion to approve the bid as stated. Commissioner Mitchell seconded the motion. All voted aye. Motion carried with a vote of two to zero, Commissioner Vincent was not present for this item.

MARCH 25, 2003

- The Commissioners conducted regular County business.

MARCH 26, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, Clerk and Recorder Shelley Vance, Treasurer Anna Rosenberry, Finance Officer Ed Blackman, Open Lands Board Coordinator Mike Harris, and Commission Assistant Christina Thompson and Glenda Howze. The Commissioners opened bids and adopted a resolution awarding the sale of bonds for the Open Space General Obligation Bonds,

Series 2003. Ms. Bridget Ekstrom, DA Davidson was present to assist in this matter. Notice was placed in the High Country Independent Press for 2 weeks and sent to 50 perspective bidders. Seven bids were received by the deadline. According to Standard and Poore's, the County has an A+ rating. S&P debated on upgrading the rating if weather indicators continue to rise. This may occur in the future. Based on the submitted bids, Commissioner Mitchell made a motion to approve Resolution 2003-28, awarding the sale of bonds to the lowest bidder, Morgan Keegan of Memphis, TN finding that seven bidders submitted bids and bond council has confirmed that Morgan Keegan was the lowest bidder. Commissioner Murdock seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered support of the Household Hazardous Waste Collection Event. Last year the County contributed \$3,372.82. In addition to this, LWQD also contributed monetary funds as well as staff assistance. Commissioner Murdock made a motion to approve expenditure of up to \$5,000 for the Household Hazardous Waste Event for 2003, with monies coming from the Logan Landfill budget. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a request for Solid Waste Management System License Renewal Application. Commissioner Murdock made a motion to approve said application. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

The Commissioners considered approval of a budget transfer request from the Three Forks Airport Board. Commissioner Murdock made a motion to approve said transfer finding that Finance Officer Ed Blackman has recommended approval. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

MARCH 27, 2003

- The Commissioners met with Montana Department of Transportation (MDT) at the MDT's Conference room (Rouse and Tamarak). In attendance were: Dave Fowler (County Roads), Rob Bukvich, (MDT Bozeman), George Durkin (County Road), John Vincent (County Commissioner), Jennifer Smith Mitchell (County Commissioner), Bill Murdock (County Commissioner), Jeff Ebert (MDT Butte), Ross Gammon (MDT Bozeman). The group discussed previous methods of communication and decided to meet quarterly hereafter for all to be kept more current on road maintenance, improvements, new construction, and upcoming subdivisions that will impact state highways. Discussion included a list of on-going and upcoming issues that should be on future meeting agendas. The next meeting was scheduled for May 8th, 2003 at 1:30pm, at the MDT conference room. An agenda was drafted up with suggested issues for discussion.

MARCH 28, 2003

- The Commissioners conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated March 27, 2003, in the amount of \$163,761.93.
2. Approval of Applications for Cancellation of Taxes for Parcel Number(s): PPP8442, PPP8382, PPP7679, PPP7635, PPP7214, PPP2947, PPP17102, PPP17094, PPP17084, PPP16871, PPP16756, PPP16083, PPP16034, PPP16029, PPP15791, PPP15761, PPP15728, PPP15699, PPP15697, PPP15517, PPP15105, PPP15073, PPP15068, PPP15064, PPP14911, PPP14886, PPP14671, PPP14655, PPP14603, PPP14588, PPP14459, PPP14328, PPP14319, PPP14297, PPP14238, PPP14236, PPP14223, PPP14208, PPP14075, PPP14063, PPP14044, PPP14041, PPP14034, PPP14015, PPP13814, PPP13806, PPP13778, PPP13701, PPP12938, PPP12786, PPP11768, PPP11752, PPP11542, PPP10474, MMM4432, MMM3778, MMM2975, MMM2283, MMM1607, MMM981; totaling \$7,389.82
3. Approval of Contract(s): Morrison-Maierle, Inc.-RID Engineer & Construction; and Snowmobile Lease-Yellowstone Adventures.

Commissioner Murdock read the consent agenda, requesting that the full reading of the parcel numbers be waived. There was no public comment. **Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

One vacancy exists on the Amsterdam Rural Fire District Board of Trustees due to the term expiration of Delbert D. VanDenBerg. This position is for a three-year term and will expire on May 2, 2006. Mr. VanDenBerg was notified, and indicated a desire to be reappointed. There was no public comment. **Commissioner Mitchell moved to reappoint Mr. VanDenBerg. Seconded by Commissioner Murdock. None voting nay. Motion carried.** Gallatin County Airport Zoning District was continued pending additional applications. **No action taken.** Three vacancies exist on the Middle Cottonwood Zoning District Board of Adjustment due to the term expiration of John A. Brown, Clarice Dreyer, and Barbara Keller. These are all three-year terms and will expire on May 2, 2006. All members were notified, and indicated a desire to be reappointed. There was no public comment. **Commissioner Murdock nominated John Brown, Clarice Dreyer, and Barbara Keller. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** One vacancy exists on the Northside Rural Fire District Board of Trustees due to the term expiration of Frank P. DiLenge. This is a three-year term and will expire on May 2, 2006. Mr. DiLenge was notified, and indicated a desire to be reappointed. There was no public comment. **Commissioner Mitchell moved to reappoint Mr. DiLenge. Seconded by Commissioner Murdock. None voting nay. Motion carried.** Sedan Rural Fire District Board of Trustees was continued pending additional applications. **No action taken.** One vacancy exists on the Yellowstone Country Board due to the term expiration of Terry Abelin. Mr. Abelin was notified and indicated a desire to be reappointed. This position is for three years and will expire on April 1, 2006. There was no public comment. **Commissioner Mitchell moved to reappoint Mr. Abelin, finding no one else applied. Seconded by Commissioner Murdock. None voting nay. Motion carried.** The Gallatin County Commission created the Gallatin County Parks and Trails Task Force. This task force will be in charge of planning, developing, and assisting in maintaining parks and trails throughout the county. Tasks for the committee will include, but not be limited to planning for the 100 acre park on Baxter Lane, assisting efforts of the Headwaters Trail project in Three Forks, and investigating governance and/or administration and funding structures for county wide parks and trails issues. The County Commission is seeking representation from all communities and individuals with an interest in helping create recreational areas and trails for all the citizens of Gallatin County. The Commission will be charged with developing a Resolution of Task Force Formation, By-Laws, Goals and Objectives, and Budget. The Board will consist of 9 members to equally represent the Bozeman Donut area, Manhattan, Belgrade, Three Forks, and Gallatin Gateway. To date, applications have been received by Don Jackson (Bozeman Donut), Charles H. Kirk (Bozeman), Katherine Donath (Bozeman), Paul Petr (Bozeman), Ron Dingman (Bozeman), Terry Lonner (Bozeman Donut), Wendy Stansbury (Bozeman), Dick McConen (Bozeman), Megan Higgins (Three Forks), Meg Anderson (Manhattan), Clarice Walters (Belgrade). An additional application was received from Linda Griffith (Four Corners) and a pending application from Jeff Heath (Gallatin Gateway). Commissioner Vincent wanted to appoint Mr. Heath pending formal receipt of the application. There was no public comment. Commissioner Mitchell voiced her concern with regards to appointing a number of people from around the county and the Bozeman Donut for adequate representation, as Bozeman already has its parks and trails and recreational boards. She requested that representation be part of the requirements for the board. **Commissioner Mitchell moved to appoint Clarice Walters, Meg Anderson, and Megan Higgins. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock nominated Jeff Heath, pending a formal application and Linda Griffith. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved to appoint Don Jackson. Seconded by Commissioner Murdock. None voting nay. Motion carried. Commissioner Murdock nominated Dick McConen, Ron Dingman, and Terry Lonner. Seconded by Commissioner Vincent.** Commissioner Mitchell could not support the motion for reasons stated. She believed they should advertise for a longer period of time. Commissioner Vincent stated that the City of Bozeman residents are county residents as well and he believed the Commission would do a good job of representing the countywide interests that are involved in any long-term comprehensive trails and parks plan. He was open to entertaining one or two at large county appointments assuming that they could find applicants from outside the Bozeman area and outside the Donut to apply which would make for a working board of eleven. Commissioners Mitchell and Murdock agreed that it would be a good idea. Further discussion took place with regard to recruiting members and possibly expanding it even more. It was noted that the County has a staff person free of charge from the National Park Service to help with funding and administration. **Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Commissioner Vincent announced that they would be considering regular agenda Item #7 next, as requested.

Open Lands Board Coordinator Mike Harris reported on the public hearing and consideration of adoption of a resolution relating to \$4,000,000 Open Space General Obligation Bonds, Series 2003; determining the form and details thereof, authorizing the execution and delivery and levying taxes for the payment thereof. Bridget Eckstrom on behalf of D.A. Davidson confirmed that they received an A+ rating on the county's \$4,000,000 Open Space Bond issue, which was the same rating in 2001. She added that it was an

outstanding indication of Gallatin County and pointed out that the rating agency called Gallatin County the "Star of the State". One of the highlights of their report was the fiscal responsibility of the county. The county received a rate of 3.96 percent on the \$4,000,000 issuance, which was lower than the 2001 bond issue of 4.34 percent. There were 7 bids received, and the bid of Morgan Keegan & Company of Memphis, Tennessee was accepted. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-029. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on receipt and opening of bids, CTEP Old Manhattan Bank Building Renovation and Exterior Improvements STPE 16(37). The following bids were received, each including the bid bond and acknowledging receipt of addendums #1, #2, and #3. Ingram-Clevenger, total bid \$132,900; R & R Taylor Construction, total bid \$97,800; and Wright Brothers, total bid \$124,884. Mr. Watson took the bids under advisement and will return April 8, 2003, with a recommendation. **No action taken.**

Commissioner Vincent announced the public hearing and consideration of a resolution of the Gallatin County Commission changing the location of the regular public meetings during the year of 2003, from May 2 through June 24. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-030. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Low Bench Road to North Low Bench Road). The petition was originally initiated by the residents, and changed to county initiated. The portion that will be North Low Bench Road will involve changing the numbers, which currently are Gallatin Road numbers to numbers that will follow the standards. The numbers will remain the same on Low Bench Road. Public comment: Aleen Kienholz questioned what kind of numbering system was going to be initiated, adding that it would be advantageous to stay as close to their present numbers as possible. Mr. Armstrong explained how the adopted county standard policy worked relative to emergency responders however he stated that they would try to be accommodating. He noted that there would be no duplication of numbers. Commissioner Vincent contacted the post office to make sure the mailboxes could stay in their current location and the post office did not indicate a need to move them. **Commissioner Mitchell moved to approve Resolution #2003-031. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the public hearing and consideration of a resolution for a road name change in Gallatin County. (Lane Drive to Windrider Lane, Bandera Lane, Durango Lane, and Revenger Lane). The county initiated the petition. There are four distinct road segments called Lane Drive, as well as a county road named Lane Road. The petition is to change all four segments to new names and reassign the numbers based upon the new countywide standard. Public comment in opposition: Darold Bruhn; Donald Hurlbert; Tom Voorhees; Mark Reinholz; and Elsie Stubbs. A concern was expressed regarding address changes relative to mail delivery. It was suggested that signs be placed on the spurs without changing the road name and that the other Lane Road in Three Forks be changed instead. The question of legality was raised because this is a private road and is not maintained by the county. It was also suggested that the residents be allowed to come up with different names than what were suggested should it be found that the road name has to be changed. Mr. Armstrong explained that Belgrade Fire brought this to their attention and they support the readdressing and road name change, as does the Gallatin County Sheriff department. He reiterated that these are state emergency 911 standards that the county has adopted. The standard states if there are three or more houses on a given road, public, private, or even a driveway, they must name that road making it more identifiable for faster emergency response. He reminded them that this is a state and federal wide mandate to get these numbers in compliance. Mr. Armstrong added that without a homeowners association it would be almost impossible to get a consensus of a particular road name however he stated that they would work with the residents if they get a petition together and want to change the name. His department will help the post office make the changes and they will forward everything for one year. He concluded that this change was a short-term problem with long-term benefits. With regard to response time, Mr. Voorhees questioned why they were in the Belgrade Fire District when Lane Drive is 3 miles from Bozeman and 5 miles from Belgrade. Mr. Armstrong was unable to answer for Belgrade Fire. He offered to contact Rural Fire Chief Brett Waters for an answer and get back with Mr. Voorhees. Gallatin County Attorney Marty Lambert addressed the importance of this issue, pointing out how Gallatin County's computer assisted dispatch works.

Commissioner Vincent believed there was a legal obligation to follow Resolution #2002-017, and take some action in this regard. Discussion took place with the possibility of continuing action for 3 weeks to accept new names. Commissioner Mitchell preferred giving the residents a chance to provide their input. She also pointed out that Belgrade Fire by contract covers the county and if you are not in the city limits of Bozeman then they are not going to be the first responder. Commissioner Murdock was convinced by the testimony that a name change was not needed however he was in agreement if the numbers had to be changed for 911. He was not in favor of the name change or the process. Commissioner Vincent questioned if the county would be opened up to a liability if they left the situation as is and later on there was an emergency response that was late because of a problem with addressing or a road name. Mr. Lambert replied that there would be potential for exposure. Although Commissioner Vincent wanted to lend his support to Commissioner Murdock's suggestion he needed to be shown definitively that address changes in and of themselves would assure public safety in this regard. He wanted to proceed under the assumption that road names will need to be changed and give the residents the opportunity to give their ideas relative to what those names should be. Mr. Reinholz suggested looking at Lane Road in comparison to Lane Drive to see who gets impacted the most. Mr. Armstrong suggested continuing the public hearing until April 22, 2003, and in the mean time the GIS Department will gather the most popular names on any of the segments and if there is not enough response, they will go forth with these names. **No action taken.**

Commissioner Vincent announced the public hearing and consideration of a resolution to amend the FY 2003 Public Safety Operating Budget to include new revenues in the amount of \$93,676 to cover expenses of an additional Sheriff deputy in Big Sky. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-032. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on the public hearing and consideration of a request for a family transfer exemption for Bonnie Lynn, located in the NW ¼, NE ¼ of Section 33, T2S, R4E, PMM, Gallatin County, Montana; Tract 1 in COS 1121. (2250 High Flat Road). It was noted that both Tracts 1-B and 1-C have existing dwellings. A concern of the Planning Department was that the Gallatin County Environmental Health Department does not have record of a septic system permit for either of the single-family dwellings existing on the current tract, therefore if in use, the wastewater systems are illegal. It was unclear whether the configuration of the proposed tracts will separate existing drain fields from its corresponding dwelling. Therefore, it was unclear if the use of the family transfer exemption at this time will create lots that do not comply with the Sanitation Act. For those reasons, it was unclear whether this proposed exemption is an attempt to evade the Montana Subdivision and Platting Act or the Gallatin County Subdivision Regulations, and therefore it was unclear if the proposed land transfer is a valid use of the family transfer exemption. Discussion took place regarding the consideration of sanitation when considering an exemption. The Planning Department requires a copy of the survey specifically for the Environmental Health Department for that review. In this situation the Environmental Health Department suggested that a review should be done first or at least concurrently. Ms. Drummond noted that the claimant has not submitted an application for an environmental sanitation review. Environmental Health has concerns about the drain field being separated from the dwellings. Gallatin County Attorney Marty Lambert pointed out that the Commission did not have to look at sanitation which is a matter of subdivision review however the criteria is still the best thing to fall back on with all exemptions. Commissioner Mitchell noted that all the tracts are under the High Line Canal. Bonnie Lynn was sworn in and testified under oath answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Both Ms. Lynn and her son are realtors. She purchased this property with the existing problem and had gone through a great deal of expense for the testing and process in order to remedy it. The applicant's representative Dennis Foreman with Gaston Engineering clarified which structure is on which tract. Mr. Foreman did not believe the original tract was created by an exemption however it may have been the remainder portion of an occasional sale. He confirmed they did perk test pits in the area to rectify this situation and were waiting to see if the family transfer was allowed first before going forward. He also added that they were required to go back to the Department of Environmental Health and get a certificate of approval for a new septic system and well, so the three tracts are subject to DEQ approval before it can be recorded. In order to do that they would have to bring the two existing systems up today's standards and come up with a site on Tract A. Ms. Lynn assured the Commission that her full intent was not to sell this property. Discussion took place with regards to applying for the family transfer first and then getting septic approval. Mr. Foreman stated that was standard. There was no public comment. Public comment was closed. Mr. Lambert questioned how one could determine how to draw the lines to create the tract if you do not know where the drain field designations are going to be located. Mr. Foreman confirmed that on each of the sites they have taken perk test pits to determine the drain field and well sites and found acceptable drain field sites on all three parcels.

Mr. Lambert questioned if they had a time frame from DEQ with regard to bringing up the specifications, due to the fact they were operating two illegal systems. In response, Mr. Foreman stated that as of today the Health Department had not proceeded with the fact that they are illegal systems. Commissioner Murdock stated the Commission could make a rebuttable presumption that Ms. Lynn is trying to evade subdivision regulations however he did not see any evidence that would cause them to deny the exemption. He believed it was a proper use of the exemption. Commissioner Mitchell stated that the family transfer exemption is a privilege and it is not a right. She stated that it would be nice to see the existing septic situation resolved first before going through the family transfer. Commissioner Vincent preferred to make sure he knew what they are dealing with on a legal basis and check the relationship between this approval and subsequent problems. He suggested a continuance for one week for further review. Mr. Lambert stated that he could do the research and draft some language that would be very explicit regarding the recording of the COS only upon condition of getting approval of the three and/or having the current system approved. Commissioner Mitchell did not believe they could legally condition family transfer exemptions unless the law changed. Commissioner Murdock made note that this was not a public hearing therefore public comment did not have to be open or closed. Action was continued until April 8, 2003. **No action taken.**

Gallatin County Planner Victoria Drummond reported on the public hearing and consideration of a request for a family transfer exemption for Bradford Yaggy Jr., located in the SW $\frac{1}{4}$ of Section 18, T2S, R5E, PMM, Gallatin County, Montana; Tract 29A-2 in COS 761D. (6800 Bighorn Lane). Ms. Drummond briefly outlined the exemption. Based on the information received, Ms. Drummond stated that this proposed family transfer exemption was not an attempt to evade the Montana Subdivision and Platting Act. Bradford Yaggy was sworn in and testified under oath answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Finding that this is a proper use of the exemption and it comports with the law and the County Subdivision Regulations and the recommendation of staff, Commissioner Murdock moved to approve the Yaggy family transfer exemption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the continuation of a public hearing and consideration of a request for preliminary plat approval for Morrison-Maierle Inc, on behalf of Lone Moose Meadows LLC for the Lone Moose Meadows Phase 1 Subdivision (Amended Plat of Minor Subdivision #257), allowing for the development of 64 residential condominium units and over 11 acres of open space. The property consists of approximately 20 acres, and is located in the W $\frac{1}{2}$ of Section 28, T6S, R3E, PMM, Gallatin County, Montana. The property is situated south of Highway 64 (Spur Road), midway between the Meadow Village and Mountain Village at Big Sky. Water supply will be provided by the Big Sky Water and Sewer District #363. The applicant requested two variances from the Road Design Standards of the Gallatin County Subdivision Regulations. The proposed subdivision is located within the Gallatin Canyon/Big Sky Zoning District. The zoning designation of the property is Resort (R). The intent of the Resort District is to provide for planned resort development that includes visitor accommodations, residential uses, recreational facilities and food service. On May 11, 2000, the Gallatin Canyon/Big Sky Planning and Zoning Commission approved a conditional use permit for a Master Planned Unit Development (MPUD) for the Lone Moose Meadows property. In summary, the approved MPUD incorporates 360.53 acres, consisting of 500 dwelling units, a resort village area, and 270.79 acres of dedicated open space. Subsequent to the MPUD, on January 9, 2003, the applicant received Planned Unit Development (PUD) approval from the Planning and Zoning Commission for Phase 1. The applicant is now making application for subdivision approval for Phase 1 of the Lone Moose Meadows development. Minor Subdivision #257 was approved for 16 residential condominium units within 10 acres. The subdivision application proposes to expand the boundaries of Minor Subdivision #257 to allow room for 48 additional residential condominium units. A letter was received from Dave Milbrath of Spokane, Washington in support of the proposal. Mr. Johnson outlined the staff findings, which included distribution of the condominium buildings; slopes/geology; watercourse; vegetation; access; subdivision roads; water supply; and sewage disposal. He explained that the site topography within the project boundaries is moderately steep, with slopes in excess of 25%. To support the building construction within the steeper slopes, site-specific geotechnical investigations have been prepared for proposed Buildings #4 and 6. The geotechnical report concludes that geologic hazards can be held to a minimum using prudent structural and foundation design techniques. The geotechnical reports are required to be submitted with each condominium land use permit. He stated that this resulted in a condition placed by the Planning and Zoning Commission through PUD approval. Mr. Johnson gave a brief overview of the following variances: #1- Section 7, Table 1., Street Design Standards, requires the centerline radius on curves to be 150 feet. The applicant requested a variance to construct the interior subdivision roads with a centerline curve radius of less

than 150 feet. According to the applicant, the variance is being requested to make road construction more feasible on the site's steep terrain, resulting in a reduction in the amount of land disturbed by the internal road system; and #2- Section 7, Table 1., Street Design Standards, requires a maximum road grade of 3 percent for a minimum distance of 75 feet from intersecting road centerlines. The applicant requested a variance to construct the interior subdivision roads with grades exceeding 3 percent from intersecting road centerlines. According to the applicant, the variance is being requested to make road construction more feasible on the site's steep terrain, resulting in a reduction in the amount of land disturbed by the internal road system. Mr. Johnson summarized the primary criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The Commission needs to make the following determinations: A determination as to whether or not the requested variances should be granted. According to Section 13 of the Gallatin County Subdivision Regulations, the County Commission may grant reasonable variances from the design and improvement standards of the regulations where it is found that strict compliance would result in undue hardship and is not essential to the public health, safety, and general welfare; A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and A determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision, the following conditions are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. A 404-wetland permit shall be obtained from the U.S. Army Corps of Engineers. A copy of the approved permit shall be submitted with the final plat application. 3. Encroachment permits for the two subdivision road approaches onto U.S. Highway 64 shall be obtained from the Montana Department of Transportation prior to final plat approval. 4. Interior subdivision road and bridge plans, road maintenance plans, drainage plans, lot access plans, and STREET and STOP sign plans shall be submitted to the Gallatin County Road & Bridge Department prior to the construction of the interior subdivision roads. 5. All road names for interior subdivision roads shall be approved by the Gallatin County GIS Department. **6.Road name signs shall be installed at all intersections.** 7. STOP sign(s) shall be installed at all intersections with State maintained roads. 8. Lone Moose Drive, Upper Lone Moose Drive, Silver Knife Lane, and Flat Iron Drive shall have, or be within a minimum 60-foot public right-of-way easement, and shall be constructed to county standards for paved roads prior to final plat approval. 9. The Gallatin Canyon Rural Fire District shall approve the design of the emergency vehicle turn-a-round prior to final plat approval. 10. A pre-construction meeting shall be conducted with the Gallatin County Road and Bridge Department prior to the start of any road construction. 11. All road work shall be inspected and certified by a licensed engineer. Such inspection and certifications must be provided to the Gallatin County Road and Bridge Department in writing. Final approval will not be given until this documentation is received. 12. With respect to paving of county maintained roads, a two-year written warranty, from the contractor, is required. This warranty must be submitted to the Gallatin County Road and Bridge Department prior to final plat approval. 13. A written cost breakdown on all paving done on county roads shall be submitted for future payback reimbursements and road impact fee credit to the Gallatin County Road and Bridge Department prior to final plat approval. 14. A copy of the property owners' association covenants shall be supplied to the County Road & Bridge Department prior to final plat approval. 15. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 16. The subdivider shall obtain written confirmation from the Big Sky Water and Sewer District regarding the District's ability to provide sewage disposal services to the subdivision. 17. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 18. The condominium development shall comply with all provision of the Unit Ownership Act, Section 70-23-102 through 70-23-703, MCA and all regulations adopted pursuant thereto. 19. The subdivider shall provide a water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. The subdivider shall have the fire district review and approve the water supply prior to final plat approval. The subdivider shall obtain written verification from the fire district that the required water supply and other required fire protection measures have been provided. 20. The subdivider shall provide Sheriff protection mitigation acceptable to the County Commission. 21. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts and local improvement districts. 22. The subdivider shall

make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 23. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 24. A property owners' association for the subdivision shall be created. 25. Covenants for the subdivision shall include the following provisions: a. Place responsibility for operation and maintenance of all subdivision access roads and subdivision interior roads, parking areas, and common open space property in the property owners' association. b. The control of noxious weeds by the property owners' association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. c. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for Seismic Zones, and the National Fire Protection Association (NFPA) codes. **d. Class A or B fire-rated roofing materials shall be used.** e. Spark arrestor screens shall be placed on all fireplace and woodstove chimneys. f. Smoke detectors shall be installed on each level of dwelling units. **g. The vegetation reduction and clearance guidelines of the Fire Protection Guidelines for Wildland Residential Interface Development shall be used.** h. Open fires shall be prohibited. i. The artificial feeding of all big game wildlife shall be prohibited. j. All garbage shall be stored in animal-proof containers or otherwise be made unavailable to animals. k. Owners acknowledge that wildlife damage to landscaping will occur, and shall accept that risk and shall not file claims against the owners association or any other governing body for such damages. l. Pets shall be controlled by each owner, and not allowed to roam within the subdivision. m. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 26. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Articles of Organization or Incorporation for the property owners' association approved by the Secretary of State of the State of Montana. b. Bylaws controlling the operation of the Homeowners' Association. c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. d. Documentation granting public road access to the subdivision and all roads within the subdivision. e. Improvements agreements. f. Certificate of a Licensed Title Abstractor. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 27. The subdivider shall have three (3) years to complete the above conditions and apply for final plat approval. The applicant Peter Forsche went over some of the key points and issues with respect to water and sewer, noting that the sewer system was now hooked up to the Big Sky system. The other issue of concern at the last hearing was some of the geotechnical issues with respect to the slide and stability. He pointed out the updated geotechnical report, from MTL Engineering, noting some of the conclusions were: no apparent stability problem in the condo building sites, based on borings done on site. The other area is the county slide area, and there were comments such as noticeable slowing and significant decrease in the slide plain. He stated that they are continuing to work with DOT to stabilize and dewater that area. The other conclusion was that in past geologic history there has been no evidence or any event of any slide or debris reaching the point, which these buildings are proposed. This was taking into account all the seismic activities and anticipation of even the most severe type of seismic activity that might occur. The applicant's representative Bob Lee with Morrison-Maierle recapped the background of the proposal and the land stability issues. It was reiterated that the updated letters and information from MTL Engineering indicated that the slides that were of issue and concern do not reach the Phase 1 project boundary. He pointed out the floodplain, adding that no buildings are proposed within that area. They were in agreement with the conditions although there were 4 conditions they wanted to discuss. He submitted to the Commission a copy of suggested proposed revisions to conditions #2, 8, and 15. Noting there were no wetlands within Phase 1 that would be impacted by the construction requiring any kind of 404-permit, it was suggested that condition #2 read: "If required, a 404-wetland permit shall be obtained from the U.S. Army Corps of Engineers". He pointed out the portion of Upper Lone Moose Drive that they wanted to leave gravel until such time that the traffic load increases to 100 ADT's and justifies the paving. The following change was suggested for condition #8: "Lone Moose Drive, Upper Lone Moose Drive, Silver Knife Lane, and Flat Iron Drive shall have, or be within a minimum 60-foot public right-of-way easement, and shall be constructed to county standards for paved roads prior to final plat approval, with the exception of the portion of Upper Lone Moose Drive north of Silver Knife Lane, which shall be constructed to county standards for gravel-surfaced roads prior to final plat approval". Mr. Lee stated because they have DEQ approval already it was suggested that condition #15 read as follows: "The applicant shall provide proof of State Department of Environmental Quality approval for the subdivision. If required, the subdivider shall obtain the Gallatin County Health Officer's approval". He believed the information sent to them by the Sheriff Department and Planning Staff was something more appropriately addressed in a consistent fashion countywide as a bonafide impact fee rather than an inconsistent policy. It was the applicant's request to have condition #20, regarding the sheriff mitigation fee stricken. Commissioner

Murdock read the conditions placed on the PUD by the Planning and Zoning Commission and requested a response from Mr. Lee as to whether or not they have been met in order to show conformance. Mr. Lee called attention to the conclusion page of Mr. Quinns' update letter on the geotechnical studies. He stated that the specific question about stability concerns for individual structures within this phase would be addressed by a geotech report prior to approval of a land use permit. The letter states that the county's line slide is not a threat to the structures in Phase 1. Commissioner Vincent noted that the letter addresses the county line slides and not the overall stability of the entire slope. Mr. Forsche read the last sentence of the letter as follows: In these previous reports no apparent stability problems were evident at the site and a considerable amount of useful subsurface data was collected to assist in describing general subsurface conditions for the lower reaches of the slope and assessing overall hillside stability. Commissioner Vincent was not quite as concerned with the foundation under the structures, as he was about the stability of the entire slope. Mr. Forsche reiterated that the letter which was specifically written and researched subsequently to the Planning and Zoning meeting clearly stated that they see no indication for any cause or concern for any sort of a slide or seismic event. Mr. Forsche was in agreement with all the conditions except for the ones they requested to be modified. Commissioner Murdock commented on the Big Sky Traffic Study and made note for Mr. Forsche to be aware of the condition he agreed to, because the state has some concerns with site distances, stability and expansion of the road. He also commented with regard to the fire impact fees relative to condominiums adding that although they cannot charge an impact fee per condo unit, the Fire District can impose requirements to mitigate fire danger. Mr. Forsche was aware of those concerns. There was no public comment. George Durkin on behalf of the Gallatin County Road and Bridge Department stated that he reviewed the road construction plans for the subdivision and supported the variance requests. Mr. Durkin stated that he would have a hard time supporting the modification to condition #8, because he did not know how long it would be gravel. He commented if the future phases were not built and it stayed gravel then it would be hard to maintain. He supported paving the road. Further discussion took place with regard to wetlands and the requirement of a 404-wetland permit. Mr. Johnson suggested modifying condition #2 as follows: "If required, a 404-wetland permit shall be obtained from the U.S. Army Corps of Engineers. If not required the U.S. Army Corps of Engineers shall state so in writing". He was in agreement to the proposed modification to condition #15, and request to have condition #20, stricken. Commissioner Mitchell stated that she could not support building on this slope, because of fallen rock she has seen in the area. She noted that it was also located near Yellowstone Park, which is the center of seismic activity. She stated that both highway accesses are on dangerous curves, and the road sloughs off. Although the test results show slowing, she wanted to see results over a longer period of time. She could not justifiably vote for building in this area, noting the steep slope over 25 percent and believed it was a huge health and safety hazard. **Commissioner Murdock moved to approve both variances, finding that strict compliance would result in undue hardship and is not essential to the public safety, and general welfare. Seconded by Commissioner Mitchell, adding that she would support the variances since the Road Department approved them and taking this as if it's a view in a separate place and location. She did not want it to be construed as support for the development. None voting nay. Motion carried. Commissioner Murdock moved to approve the application with all the conditions as presented by staff, and amended as follows: condition # 2, adding "If required", at the beginning and at the end of the sentence add: "If not required, the Army Corp of Engineers shall state so in writing"; condition #15 to read as follows: State Department of Environmental Quality approval shall be obtained for the subdivision. If required, the subdivider shall obtain the Gallatin County Health Officer's approval"; strike condition #20. He added the finding it comports with Big Sky/Gallatin Canyon Zoning Regulations, State law, and the Gallatin County Subdivision Regulations. Seconded by Commissioner Vincent, adding that he could not support the motion. The only way he could have supported the motion would be if scientific data were submitted for the record that was so solid and conclusive in his estimation, should a seismic event or a slide happen at this location because of saturation or any other reason that could convince a judge or jury that the County Commission was not in any way liable for any injuries or destruction resulting from a slide. He reiterated his concern with the entire slope and assessing overall hillside stability. He could not support the application under State Statute 76-3-608, in consideration of public safety. If it were not for the precise location of the condominiums, it would be a different story. Commissioner Mitchell commented because the report states "hazards will be held to minimum" was not a mitigation, as there is no way one could guarantee this is not going to happen. She added, as part of her reasons for denial was the dangerous accesses off the curve of Highway 64. Commissioner Murdock voting aye. Commissioners Mitchell and Vincent voting nay. Motion failed and the subdivision was denied.**

Commissioner Vincent asked the Commission if they wanted to revisit regular agenda Item #1, because he had received confirmation that Lyle Zimmerman who resides in county had applied for a position on the

Gallatin County Parks and Trails Task Force. Commissioner Mitchell preferred to wait since they are looking for others and they did not have his application. **No action taken.**

There were no pending resolutions. There being no further business the meeting was adjourned at 12:18 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 8TH DAY OF APRIL 2003

The meeting was called to order by Chairman John Vincent at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

MARCH 31, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Mitchell, Murdock, Finance Officer Ed Blackman, Shop Foreman, Dave Fowler, Director of IT, Ed Kawa, Commission Assistants Christina Thompson and Glenda Howze. Discussion in regards to the GIS and 911 contract was continued for next scheduled office meeting. The Commissioners discussed finalizing FY04 Budgetary Goals and Objectives to include Health and Public Safety, Public Input and Legal Requirement, and Recruiting and Retaining county Employees. Commissioner Mitchell expressed that the Gallatin County Goals should be updated to include public demand.

The Commissioners considered an award of Loader bids for the Road Department. Commissioner Murdock made a motion to approve said bid. Commissioner Vincent seconded. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered the applications that have been received for appointment for the Middle Cottonwood Zoning District Board of Adjustment, Amsterdam Rural Fire District Board of Trustees, Gallatin County Airport Zoning District, Northside Rural Fire District Board of Trustees, Sedan Rural Fire District Board of Trustees, Yellowstone Country, and Gallatin County Parks and Trails Task Force. Both Sedan and Gallatin County Airport Zoning District were continued. The Commissioners discussed the creation of the Gallatin County Parks and Trails Task Force. Commissioner Mitchell felt that more equal representation throughout the county should be represented that more time was needed to review and recruit applicants. Commissioner Murdock and Commissioner Vincent felt that the applicants were adequate and they would have some 'at large' spots available to represent countywide areas.

The Commissioners discussed the suggested process for the Detention Center Capital Projects. Commissioner Vincent will follow up and confirm with Bob Isdahl and Jim Cashell regarding weekly updates outlining project responsibilities.

The Commissioners considered remodeling ITS's old training lab to a new Data Center and hiring an ITS Network Administrator. Commissioner Murdock approved Budget Transfer of funds for ITS New Data Center. Commissioner Mitchell seconded. All voted aye. Motion carried with a vote of two to zero. Discussion regarding a new ITS Network Administrator was continued for further discussion next scheduled office meeting. The Commissioners discussed Digital Data storage for the County. Glenda will follow up with a memo to all departments.

The Commissioners discussed Mesa Communications to construct a 195' Telecommunications tower at the Justice Center. It was concluded that the tower must go through the City of Bozeman Review Process.

APRIL 1, 2003

- The Commissioners conducted regular County business.

APRIL 2, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Mitchell, County Attorney Marty Lambert, Sheriff Jim Cashell, and Commission Assistants Glenda Howze. The Commissioners discussed the possibility of a regional jail. Sheriff Cashell stated that Park County, Madison County, and Sweetgrass County are all interested in discussing the option of a regional jail. Commissioner Murdock stated that this was discussed before with Sheriff Slaughter and Park County was not interested at that time due to

numerous concerns. The group agreed that while they do not want to completely disregard the possibility of a regional jail, the criminal justice assessment and other immediate detention needs in Gallatin County should be addressed first.

The Commissioners considered approval of a contract/grant proposal with the Public Safety Foundation of America. Grants Administrator Larry Watson and 911 Director Ben Hess joined the Commissioners for this portion of the meeting. This is a grant proposal for \$150,000 to replace equipment. There will be a \$7,452.63 match required that will come from the 911 budget. Mr. Blackman has identified the funds and the City of Bozeman has given their approval to the application. If the grant is awarded it will return to the Commission in the form of a contract. These funds will allow 911 to upgrade a controller computer, which is currently analog, to assist with "Project Locate" and allow emergency personnel to identify within 5 meters the location of the person needing assistance. The upgrade will be digital. Commissioner Murdock made a motion to approve the grant application to the Public Safety Foundation of America finding that it has been recommended by the 911 Director and approved by the City of Bozeman. Commissioner Mitchell seconded the motion. In discussion Commissioner Mitchell asked Mr. Hess if the grant would include equipment, training, upgrade, installation and maintenance. Mr. Hess stated that it is a package deal but may not include maintenance. All voted aye. Motion carried with a vote of two to zero.

Mr. Watson brought a request to the Commissioners to confirm a previous decision to hire an equipment operator for the West Yellowstone Composting Facility. Commissioner Mitchell made a motion to direct the HR Director to proceed with posting of a position for equipment operator based on a previous decision of the County Commission. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

APRIL 3-4, 2003

- The Commission conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated April 3, 2003, in the amount of \$329,248.77.
2. Request for Relocation of Common Boundary and Lot Aggregation of Single Lot Within a Platted Subdivision and Adjoining Land Outside the Subdivision for Myles D. and Barbara A. Hupka described as Lots 10 and 11 of Mystic Heights Subdivision No. 3 and Tract 1 of COS 1358E, located in the NE ¼ of Section 12, T3S, R5E, PMM, Gallatin County, Montana. Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
3. Request for Mortgage Survey Exemption for Wesley G. & Harold & Fannie Wierda, located in the NW ¼ of Section 22, T2S, R3E. (20779 Norris Road, Manhattan, MT). Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Relocation of Common Boundary Within a Platted Subdivision for Lora J. Vaughan and Mark S. Strobel, described as Lots 279 and 280A of Rainbow Subdivision of Bozeman Hot Springs Tract, located in the NE ¼ and the SW ¼ of Section 23, T2S, R4E, PMM, Gallatin County, Montana. Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Approval of Contract(s): Management Associates, Inc.

Commissioner Murdock read the consent agenda. There was no public comment. **Commissioner Murdock moved to approve the consent agenda. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Julia Herdina, of the Manhattan Community Library speaking on behalf of all five Gallatin County libraries reported on the proclamation declaring April 6-12, 2003 "National Library Week". There was no public comment. **Commissioner Mitchell moved to proclaim April 6-12, 2003, "National Library Week" in Gallatin County. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson reported on the continuation of receipt and opening of bids, CTEP Old Manhattan Bank Building Renovation and exterior improvements, STPE 16(37), a joint

project between Gallatin County and the Town of Manhattan. The Town of Manhattan participates by contributing 13.42 percent cash match necessary to fund the activities for the renovation of the bank building. Mr. Watson explained that the allocation requires action by the Town Council and they have been unable to meet during the one-week continuance he requested at last week's hearing. He stated that he had a bid award pending for the successful low bidder, R & R Taylor Construction however in order to allow for the appropriate action by the Manhattan Town Council he requested an additional one-week continuance. He will then officially present the bid recommendation. There was no public comment. The continuance request was granted until April 15, 2003. **No action taken.**

Gallatin County Planner Victoria C. Drummond reported on the continuation of consideration of a request for the Bonnie Lynn family transfer exemption. Ms. Drummond summarized the request that was continued last week so Gallatin County Attorney Marty Lambert could research and give an opinion regarding sanitation review relative to approval of the family transfer exemption. The two single-family dwellings were found to have illegal wastewater systems when Ms. Lynn applied for the exemption. The Planning Department was unclear whether the configuration of the proposed tracts will separate existing drain fields from its corresponding dwelling. Therefore, it was unclear if the use of the family transfer exemption would create lots that do not comply with the Sanitation Act. Mr. Lambert confirmed that the Commission's concerns would be addressed as follows: The applicant would have to go through sanitation review with the Board of Health; and DEQ will have to sign off and approve all the systems before the Clerk and Recorder can accept the COS for recording. **With all the information presented Commissioner Murdock believed this was a proper use of the exemption and moved to approve. Seconded by Commissioner Mitchell** adding that she would vote in support however reluctantly, given the answers to the questions and the fact the applicant is a realtor and the problems with the septic system. She preferred to have the septic problems resolved first. **None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution of intent to amend the Belgrade Rural Fire District FY 2003 budget by appropriating \$100,000 in revenues received from fire impact fees for the purchase of land for construction of a new headquarters and training facility. The Board of Trustees voted approval on March 4, 2003. A public hearing will be held on April 15, 2003. Rural Fire Chief Brett Waters reported that this was a standard process for the use of impact fees. Mr. Waters confirmed that they were aware if in the event Fire Impact fees were found to be illegal or unconstitutional the district would repay the amount of Fire Protection Impact Fees spent. Discussion took place with regard to the new facility in Belgrade and its intended use. Commissioner Mitchell questioned if Mr. Waters had any idea why the voters denied this when it was on the ballot. Mr. Waters replied that there were multiple things on the ballot and the timing of the election was not the best. He also noted that this has been in the Belgrade Rural Fire District's plan since 1994, as a long-term plan for capital improvements. The \$100,000 would be for a down payment on the land, which is south of Belgrade off of Jackrabbit Lane. Further discussion took place with regard to the total cost and how much more money would be needed. Commissioner Mitchell commented that this was not the standard operating procedure when the question has already been asked of the voters and they turned it down. She felt responsible to the voters and taxpayers that they did not want to spend money for something they have already turned down. Mr. Waters stated that one of the comments they had at all the public hearings when asking for the mill levy increase was, "Why don't you use your Impact Fees first?" There was no public comment. **Commissioner Murdock moved to adopt Resolution of Intent #2003-033. Seconded by Commissioner Mitchell. Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Manhattan Planning Consultant Ralph Johnson reported on the public hearing and consideration for final plat approval for the Schutter Minor Subdivision. Preliminary plat approval was granted January 28, 2003. Mr. Johnson reviewed the final plat and based on the information received, he stated that it appears the conditions of final plat approval have been met. There was no public comment. **Commissioner Mitchell moved to approve final plat for the Schutter Minor Subdivision, finding that according to the testimony received it has met all the Manhattan City/County Planning Board's requirements, conditions for final plat approval, State Statute and the County Subdivision Regulations. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Karin Caroline reported on the public hearing and consideration of a request for preliminary plat approval for Western Wireless Corporation, on behalf of the landowner Jerry Perlinski

for the creation of a lease parcel to accommodate a telecommunication facility (cell tower) for the Bear Canyon RV Park, located in the NE ¼ of Section 23, T2S, R6E, PMM, Gallatin County, Montana. The property is generally located at the southern end of the existing Bear Canyon RV Park. The request is for a 1,600 square-foot parcel created by lease (Lot L) in an area outside the Gallatin County/Bozeman Area Zoning District (“donut area”) and outside the Bear Canyon Zoning District. Western Wireless Corporation proposes a 60-foot monopole tower, which could accommodate up to 3 tenants, including themselves. On the ground, there would be three ground boxes, measuring approximately 36”L x 24”W x 42”H housed within a 6-foot chain link fence with three strands of security barbwire. Maintenance would occur on a monthly basis or at other times as needed. Letters (Exhibits “A, B, and C”) from the Fire District and the Fire Counsel were attached to the staff report requesting space for voice repeaters and a paging transmitter be reserved for the use of the County emergency services. Ms. Caroline pointed out that the Federal Communications Commission has been established to oversee the use of the telecommunications spectrum. The regulations of frequency allocation and use has been reserved to them, to the near total exclusion of other governmental entities including the City of Bozeman and Gallatin County. Due to the restrictions of the law (Title 47, Chapter 5, Subchapter III, Part I, Section 332 of the US Code), staff does not believe the County can mandate the telecommunication providers avoid frequencies, which interfere with the County’s equipment nor prohibit their construction. She noted that suggested condition #9 was crafted to try and find a legally allowable solution to this problem. The suggestion as written does not regulate frequency allocation or use nor does it place an undue burden on the persons constructing the tower itself. The condition places the responsibility of mitigating a hazardous or potentially hazardous impact of development on those entities whose activities create the impact, the telecommunication providers. The condition identifies that the actions of persons may cause a need for action by the County to preserve public health and safety. The County Commission has one determination to make with this application. A determination whether or not approve the proposed subdivision created by lease. The basis for the Commission’s decision shall be whether the preliminary plat and additional information, demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations. If the Board decides to recommend approval of the subdivision created for lease, the following conditions of Final Plat approval are suggested: 1. With the Final Plan submittal, the applicant shall provide for consideration a narrative addressing the issue of ice fall and any mitigations, if necessary. 2. Since multiple ground or support equipment would be necessary, the applicant shall integrate any proposed ground equipment, cabinets, etc. within a single building or other similar integration of equipment housing. 3. Applicant shall provide written demonstration with the Final Plan that there are no available openings on existing facilities and that a new structure is necessary. 4. Tower shall be of a galvanized finish or be painted in neutral colors and shall not exceed the proposed 60 feet. 5. No lighting will be allowed unless such lighting is required by the FAA or the FCC. Gallatin County requests the minimum lighting required by regulations with no lighting preferred. If lighting is required, applicant shall include a letter from either of these agencies stating the required lighting type and area of placement. 6. Any proposed signage shall be submitted with the Final Plan application. A single four square foot business identification sign is allowed. 7. Applicant shall be required to install landscaping around the compound to screen the area from the highly visible I-90 corridor. Final Plan shall show details of proposed landscaping. 8. The existing temporary telecommunication facility shall be dismantled and removed from site once the proposed tower is constructed and operational. 9. Applicant shall enter into an agreement with the County addressing possible interference between the telecommunication facility with County services. The agreement shall state the date of the proposed construction of the telecommunication facility (“facility”), type of facility (monopole, lattice tower, etc.) including dimensions, and describe with particularity the proposed location for the facility. In addition, the agreement shall grant to the County space on the tower for two VHF, one UHF, and two microwave antennas for the County emergency services, including but not limited to, fire, law enforcement, EMS, and search and rescue. In addition, the Applicant shall grant to the County floor space within a proposed building or other similar integration of equipment housing for two 6-foot high, standard radio cabinets. The agreement shall state that if, after construction of cell tower and installation of any carriers including the applicant’s communication corporation, the County experiences interference with County emergency services, the applicant shall mitigate, remove or relocate that carrier(s) so that normal service may be restored and interference eliminated. The agreement shall run with the term of the lease and transfer over to any successors, assignees or lessees. The agreement shall be subject to review and approval by the County attorney’s office and once approved, shall be recorded simultaneously with the Final Plan in the Gallatin County Clerk and Recorder’s Office. 10. Applicant shall submit the following items for review and approval by the Gallatin County Attorney’s Office: a) Covenants, restrictions, or lease agreement(s) b) Easement agreement 11. Applicant shall submit a certificate of installation of improvements by a licensed engineer. 12. Applicant shall submit a plan showing all boundary lines, lease lot lines, private access easement, proposed landscaping, etc., prior to final approval. Such plan shall include the following certificate of County Commissioners to be approved and signed by the chairman of the Board of County

Commissioners: **CERTIFICATE OF COUNTY COMMISSIONERS I**, (the Chairman of the Board of County Commissioners), Gallatin County, Montana do hereby certify that the accompanying plan has been duly examined and have found the same to conform to the law, approve it. DATED this ____ day of _____, A.D., 2003 Signature Chairman, Board of County Commissioners 13. A Memorandum of Understanding shall be signed between the Weed Control District and the applicant prior to Final Plan approval. 14. Applicant shall record with the Clerk and Recorder's Office an explanation regarding proposed Lot L and the dissolution of such "lot" upon termination of lease agreement. 15. Applicant shall dismantle cell tower and all accompanying equipment and material within six months following abandonment of such tower. 16. Applicant shall have three (3) years to complete the above conditions and apply for Final Plan approval. Commissioner Murdock questioned if there would be blinking lights on the tower. Ms. Caroline referred the question to Western Wireless, noting that condition #5 addressed that issue. Commissioner Vincent commented that one could conclude by reading some of the correspondence received on this relative to the potential for interference with county communications that this could be contrary to the public health and safety. He made note that the FCC has decided they cannot consider public health and safety even under the Montana Subdivision and Platting Act, which enables them to do so for approving or disapproving the application. Gallatin County Attorney Marty Lambert stated that it did not make sense that the provider regardless of whether it was federal or state regulation be allowed to operate in ways that impede emergency communications. Bryan Romeijn, regional project manager for Western Wireless confirmed that they have not had to light the temporary structure therefore there should be no lighting requirements for the tower. Mr. Romeijn stated that they have several sites where the sheriff and hospital and other emergency services are on their tower and they live in harmony with no interference problems. He stated that Western Wireless was open for 911 and emergency services to go on their pole, adding that they could enter into a co-location agreement. When asked if he was in agreement with condition #9, Mr. Romeijn responded that he hoped the agreement would be the co-location agreement, noting that he believed the agreement would cover the interference issues. He stated that the pole would be structurally sound with space available to handle the counties load. Commissioner Mitchell suggested revising condition #4, to read monopole tower. Mr. Romeijn was in agreement. Since it was stated by Mr. Romeijn that there would be no interference problems, Mr. Lambert asked if they could make that a condition. Mr. Romeijn explained that they would need to know where the county wanted to place their antennas, (what type of antenna, frequency, power levels) and they would conduct studies and find a solution if a problem should arise. To answer the County Attorney's concerns, Ms. Caroline pointed out language in condition #9, addressing the issue. Mr. Lambert was in agreement. Doug Fudge, senior RF Tech with Western Wireless spoke with regards to their stringent maintenance program and what it entails. He was assured that the concerns with interference could be worked out. Commissioner Vincent questioned what the need was for this cell tower and what area they were targeting. Mr. Fudge stated that they were targeting the rest of the Bozeman Canyon corridor, west of Jackson Creek to East Main Street, noting they have very limited cell coverage in that area. Mr. Romeijn explained that they lost their site on Story Hill, which previously covered this area. Mr. Lambert confirmed from his years on the 911 Board that both paging and voice communications were an issue with the Fort Ellis Fire District in this area and this may prove helpful to them. Commissioner Murdock commented that he respected the work of Western Wireless and all the other tower operators, given the state of current technology however he considers these towers in the present technology, a plague in the landscape. **Commissioner Mitchell moved to approve the preliminary plat request for this telecommunications facility for Bear Canyon RV Park, with all the conditions as presented and amended as follows: condition #4, place the word "Monopole" in front of tower. Seconded by Commissioner Murdock.** Commissioner Vincent seconded Commissioner Murdock's thoughts although he recognized they provide a public convenience. **None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of request for preliminary plat approval for Stahly Engineering & Associates, on behalf Keith and Kay Bright for the Bright Minor Subdivision, described as a tract of land situated in the NE ¼ of Section 13, T2S, R4E, PMM, Gallatin County, Montana. The property is generally located west of the intersection of Monforton School Road and Huffine Lane at 8256 Huffine Lane. The proposal is to subdivide 3.16 acres, into 3 lots. The applicant proposes the minor subdivision to separate the land between an existing single-family residence and the existing commercial buildings of KB Building & Supply, and to create a new tract for a new commercial building. Mr. Scott outlined the staff findings, which included surrounding land uses; topography/natural resources; roads/access; and lot dimensions and orientation. Primary access to Lots 1 and 2 of the subdivision is provided by Huffine Lane (MT 191), which is maintained by MDOT. A memorandum for a request for review of this proposal was sent to the MDOT, and there was no response. Lot 3 shall be accessed by an access easement that shall be approved by the County Attorney, recorded with the Clerk and Recorder, and shall clearly grant to the public an

unrestricted right of ingress and egress from Huffine Lane to Lot 3. Section 6B.1. of the Gallatin County Subdivision Regulations states lot designs with irregular shapes, narrow necks, points and flag shapes shall be permitted only when the subdivider can demonstrate that the proposed lot designs are necessary due to topography or other physical constraints. The applicant's agent claims that the proposed lot designs are to accommodate the existing structures and appurtenances to be placed on the appropriate lots known as Lots 1 and 2. Lot 3's design is stated to be the remainder of the configuration of Lots 1 and 2. The applicant's agent further claims that Lot 3 lends itself well to a new commercial building with landscaping on the Huffine Lane frontage and parking at the rear of a new building and existing buildings. The Gallatin County Planning Board approved this proposal at their March 25, 2003, meeting with a 6:1 vote. Mr. Scott summarized the primary criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The County Commission needs to make the following determinations: A determination as to whether or not the application meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act; and a determination as to whether or not the application complies with the provisions of the Gallatin County Subdivision Regulations, specifically, Section 6B.1. Lot Dimension and Orientation. If the County Commission approves this application, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates. 2. State Department of Environmental Quality approval shall be obtained for the subdivision. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer's approval. 3. The final plat shall contain a statement requiring lot access to be built to the standards of Section 7.G.2. of the Gallatin County Subdivision Regulations. 4. Written conformation from the Montana Department of Transportation shall be provided to the Planning Department certifying the existing encroachments to Huffine Lane (Hwy 191) are adequate to accommodate the proposed subdivision and proposed additional commercial use prior to final plat approval. 5. Lot 3 shall be accessed by an access easement that shall be approved by the county Attorney, recorded with the Clerk and Recorder, be built to county gravel standards, have a sixty (60) foot right of way, and shall clearly grant to the public an unrestricted right of ingress and egress from Huffine Lane (Hwy 191) to Lot 3. 6. A pre-construction meeting shall be set with the County Road Department prior to the start of any road construction. 7. All roadwork shall be built to Montana Public Standard Specifications (Current Edition), inspected and certified by a licensed engineer. Such inspection and certification must be provided to the County road office in writing. Final approval shall not be given until this documentation is received by the County road office. 8. A "Property Association" must be formed for the maintenance of all interior roads. A copy of the Property Association by laws is required to be submitted to the County road office prior to final plat approval. 9. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 10. All areas of the public right of way disturbed during construction activities must be sodded or reseeded. 11. All utility easements are to be shown on the final plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat: *"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 12. The subdivider shall obtain written verification from the RAE Fire District that the required water supply and other requirements of the Fire District have been met prior to final plat approval. 13. The subdivider shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, or the creation of a sewer and/or water district. 14. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 15. The applicant shall provide a mitigation plan for Sheriff services that is acceptable to the County Commission. 16. The applicant shall provide a landscape plan to be approved by the Planning Department prior to final plat approval. The landscape plan should incorporate the necessary screening or buffering from adjacent other land uses (residential, agriculture, etc.) and public rights of way to provide a visual buffer and to protect the character, stability, and value of the land and the buildings. 17. Applicant shall record the following covenants on or with the final plat: a. *The control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.* b. *The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from Gallatin County, the County may cause the noxious weeds to be controlled. The cost and expense associated with*

such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. c. Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening. d. All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law. e. All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for pertinent Seismic Zone. f. All lot accesses shall be built to County standards as specified in Section 7.G.2 of the Gallatin County Subdivision Regulations. g. Any covenant, which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission. 18. Two copies of the following documents shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for final plat approval. a. Any and all improvements agreements. b. Restrictive and protective covenants encumbering the real property contained within the subdivision. c. Certificate of a Licensed Title Abstractor. d. Public access easement documents. 19. The Gallatin County Attorney's Office shall review and approve the above documents prior to final plat approval. 20. The developer shall have three (3) years to complete the above conditions and apply for final plat approval. Commissioner Murdock suggested deleting condition #15, regarding sheriff mitigation impact fees from future proposals until a study for those impact fees is conducted. Discussion took place with regard to the sheriff mitigation fee issue. Neither the applicant nor the applicant's representative was present for questions by the Commission. There was no public comment. Public comment was closed. Commissioner Mitchell requested a continuance so she could question the applicant regarding their permitted access onto Huffine Lane. Discussion took place with regard to the time frame relative to an extension of the application. It was determined by the Commission to continue action until April 15, 2003. Mr. Scott was to notify the applicant. **No action taken.**

Gallatin County Planner Christopher Scott reported on the public hearing and consideration of a request for a Conditional Use Permit for Annette Jacobs/Faith Community Church and School within the Agricultural-Suburban District (A-S) of the Gallatin County/Bozeman Area (GC/BA) Zoning District. The subject property is located in the E ½, SE ¼ of Section 32, T1S, R6E, PMM, Gallatin County, Montana. The property is generally located approximately three quarters of a mile east of Story Mill Road on Bridger Canyon Drive (MT 86). The address of the property is 2215 Bridger Canyon Drive. Mr. Scott submitted Exhibit "A", a letter from adjacent property owners Rodney & Kathy Campbell. Mr. Scott outlined the staff findings, which included: background; adjacent land uses; topography; access; and fire districts. It was noted that the staff report contained pertinent sections of the Gallatin County/Bozeman Area Zoning Regulations that were relevant to the proposal. Notice of the public hearing was sent to adjacent property owners via certified mail, and published in the High Country Independent Press on March 6 and 13, 2003. As specified in the Regulation, notice was also posted in at least one conspicuous location on the site. At their meeting on March 25, 2003, the Gallatin County Planning Board voted to recommend approval (9:0 vote) of the application, with conditions suggested by staff. The Board in a 5:4 vote amended the recommendation to the County Commission, indicating a determination as to whether or not the applicant's proposal meets the criteria of Section 53.030 A.2. of the Regulation could not be made, since no comments from the Montana Department of Transportation were received. That criteria read as follows: That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use. After hearing and considering all public testimony, the Gallatin County Commission needs to make the following determinations: A determination as to whether or not to approve the requested conditional use permit; and a determination as to whether or not the request as proposed by the applicant meets the criteria of Section 53.030A of the Regulation: A determination as to whether or not to approve the requested conditional use permit. A determination as to whether or not the request as proposed by the applicant meets the criteria of Section 53.030 A of the Regulation: 1. *The site for the proposed use is adequate in size and, topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly relate such use with the land uses in the vicinity;* 2. *That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;* 3. *That the proposed use will have no adverse effect on the abutting property;* 4. *That the proposed use shall be in conformance with the Gallatin County Plan;* 5. *That the conditional use has complied with all conditions stipulated in Section 46, 47, 50;* If the County Commission recommends approval, the following conditions for the granting of the conditional use permit are suggested: 1. According to Section 53.030 B of the Regulation, the Commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted: a. That the right to use and

occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure; b. That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County clerk and recorder's office by the property owner prior to issuance of any building permits, final site plan approval or commencement of the conditional use; c. That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns; d. That all of the special conditions shall be consented to in writing by the applicant. 2. Fire services and/or providing a water supply for fire fighting purposes shall be reviewed and approved by the Story Mill Fire District. The applicant shall obtain written verification from the Fire District that this condition has been satisfied. 3. The applicant must receive written conformation from the City of Bozeman Building Department certifying that the buildings may be occupied for church and school uses. 4. Written conformation from the Montana Department of Transportation shall be provided to the Planning Department certifying the existing encroachment is adequate to accommodate the change in use from a residential to a church and school use. 5. The applicant shall obtain a sign permit from the Planning Department prior to installing any signage for the church and school. 6. The applicant shall have two (2) years from the County Commission hearing date to complete all conditions to allow the conditional use to be permitted. If any conditions are incomplete two (2) years from the County Commission hearing date the Conditional Use Permit will become null and void. The applicant may request an extension of the two (2) year time limit before the County Commission. 7. Prior to occupancy/opening of the church and school, the applicant shall receive approval for a water and sewer system for a church and school use from the Montana Department of Environmental Quality and the Gallatin County City Health Department. 8. The applicant shall submit a final site plan for approval by the Planning Department. The final site plan shall include plans for landscaping, parking, grading, drainage, and lighting. 9. Prior to occupancy/opening of the church and school the applicant shall have completed or financially guaranteed the following work: • All areas intended to be utilized for permanent parking spaces and driveways shall be paved with concrete or asphalt concrete, or approved pavers, to control dust and drainage. • All parking stalls shall be marked with painted lines not less than four inches wide. • All open off street parking areas and driveways shall have a six-inch by six-inch perimeter concrete curb around the entire parking lot, including driving access ways. The configuration of the off-street parking shall be adequately dimensioned on the final site plan and shall comply with the requirements of Section 47 Parking, which includes parking stall dimensions, drive aisle widths, lot surfacing, and curbing. 10. Prior to occupancy/opening of the church and school, any existing or proposed lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged so as to deflect light down and/or away from any adjoining residential district and shall not detract from driver visibility on adjacent streets. In addition, all lighting (except for security purposes) shall be turned off between eleven p.m. and six a.m. (11pm-6am). Lighting used to illuminate off-street parking areas shall not exceed twenty feet (20') or the height of the tallest building on the lot, whichever is lower. 11. The applicant shall submit to the Planning Department a screening/buffering plan with the approval of adjoining property owner(s) to the west of the subject property. 12. A final landscape plan shall be submitted and approved by the Planning Department. Final landscape plans shall be prepared and certified by a registered Montana landscape architect; and individual with a degree in landscape design and two years of professional design experience; or an individual with a degree in a related field and at least five years of professional design experience. The landscape plan shall comply with all regulations of Sections 43 Entryway Corridor Overlay District and Section 46 Landscaping. All landscaping shall be installed or financially guaranteed prior to occupancy/opening of the church and school. Mr. Scott suggested amending condition #9, to read as follows: 9. Prior to occupancy/opening of the church and school the applicant shall have completed or enter into a zoning improvement agreement, approved by the County Attorney for the following work. Attorney Susan Swimley, the applicant's representative pointed out that the plan that applies to this area is the Bozeman 1990 Area Master Plan Update, which is adopted as part of the Gallatin County Growth Policy. She explained in detail the definition of the Suburban Residential and its intent relative to the CUP. The CUP is proposed to re-use the existing buildings with no division of the land. Ms. Swimley outlined goals under the Bozeman 1990 Master Plan Update that they have met. She went through the criteria under Section 53.030A that the Commission must consider in order to determine whether or not to grant the CUP, and pointed out what the applicant has proposed to do to meet those requirements. On the site plan she pointed out that the off street parking states "gravel parking" and noted that the applicant was aware that under the criteria for zoning she is not entitled to have gravel parking and that it has to be paved, concrete or asphalt. They did not want to do the paving until after getting approval. In regard to the second criteria, Ms. Swimley stated that the issue was with encroachment. She explained to date, what they have done to try and get the encroachment verified. They contacted MDOT several times and to date they have not received the report with regards to the site evaluation that was promised on Friday. She noted a letter received on March 21, 2003, from the Rugheimer family, adjacent property owners with concerns that there was no delineation of the irrigation ditch on the plat. She pointed out that it was a site plan, not a plat. She addressed some of

their concerns regarding impacts to neighbors such as landscape buffer, fencing, noxious weed plan, and speed limit. Although they did not believe the noxious weed plan applied since they were not having any new construction, the applicant agree to enter into a weed management plan if the Commission requested it. Ms. Swimley stated that the applicant was happy to provide and accommodate all the landscaping requirements and site plans necessary as set forth in the conditions. In addition to what MDOT says, the applicant was willing to add as a condition that they will publish in the weekly church bulletin a request for the church members to car pool and the school. They believed this would lessen the traffic to and from and bring the church community together. Commissioner Mitchell admired the fact that the existing buildings were going to be used however she was not sure car-pooling was adequate mitigation with regard to traffic because there was no way to monitor it. Public comment: Rodney Campbell; and Lynn Rugheimer. Concerns expressed were: speed limit; weeds; and access safety. Public comment was closed. Commissioner Mitchell concurred with the weed management plan since the applicant was willing to add that as a condition. She stated that perhaps the Commission could help with the communication efforts with MDOT. Commissioner Murdock could not support the proposal, as he believed it was in a dangerous spot and he did not think they could adequately mitigate for the traffic. He stated that the applicant did a lot of good things with the project however it was in the wrong spot. He added that it was sprawl, which was inconsistent with the plan and he preferred to see this closer to like development. Commissioner Vincent stated his only concern in regard to this application was the safety of the access and encroachment. Annette Jacobs commented that there were plans to implement, such as asking the Highway Patrol to ticket and monitor before opening and the use of parking attendants. Ms. Jacobs stated that they were more than willing to sign a legal contract with the county stating they would take the responsibility to do this procedure for the safety of the people. Commissioner Vincent appreciated her willingness to do those things however; he had liability questions with regard to private attendants giving traffic directions. He also questioned if they could engage the Highway Patrol in a commitment such as suggested. Ms. Jacobs pointed out that because of the fish hatchery being in this area there are many cars lined up on Bridger Drive causing dangerous situations. She also noted the blind corner near the "M", were cars park along the road. Because it appeared that Commissioner Murdock was going to vote against the proposal and the other Commissioners were focused on the encroachment, Ms. Swimley suggested giving them time to hire their own traffic engineer to come back with their own plan, although it would not get them out of their problem with MDOT. Further discussion took place regarding speed reduction. Ms. Swimley asked for a continuance until they could bring back some type of plan to deal with the encroachment issue. Action was continued indefinitely. **No action taken.**

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Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a request for preliminary plat approval for C & H Engineering & Surveying, Inc., on behalf of MCO, Inc. & Sara Terrace, Inc., for the Sara Terrace Major Subdivision, located in the SW ¼ of Section 13, T1S, R3E, PMM, Gallatin County, Montana. The property is generally located in the Churchill area, west of Churchill Road at Crestline Drive. The proposal is to subdivide approximately 11 acres into 20 residential lots. The land is currently utilized as a mobile home park, and the purpose of the subdivision is to convert the mobile home rental lots to fee-simple lots. The proposed subdivision would create a total of 20 lots, 18 of which would accommodate existing residences, with two lots reserved for future residential development. The applicant is requesting two variances from the Road Design and Improvement Standards of Section 7.J.3 of the Gallatin County Subdivision Regulations. Section 7.J of the Subdivision Regulations describes Street Design Standards (Table 1), and Paving and Street Width Standards (Table 2). According to these standards, the interior roads of this subdivision should have a 60-foot width and a paved width of 24-feet. The applicant has requested two variances, a 40-foot right-of-way width, and a 16-foot paving width, which reflects existing site conditions. Section 13.A of the Subdivision Regulations authorizes the Commission to grant "reasonable variances...where it is found that strict compliance is not essential to the public health, safety, and general welfare." Mr. O'Callaghan briefly summarized the staff findings. He provided the Commission with Exhibit "A", a letter from the Amsterdam School stating minimal impacts and a sketch of the roadway between this proposal and the Settlement Subdivision. On the sketch he pointed out that the applicant has agreed to dedicate 30-feet of right-of-way for the road that borders lots 17-20. The Settlement Subdivision dedicated 30-feet of right-of-way on their plat. These two right-of-ways can be combined to create a 60-foot right-of-way. Unfortunately, there is a fence 15-feet into the right-of-way, and a structure appears to have been built in the Settlement Subdivision right-of-way. They now have 45-feet of useable right-of-way, and the situation of the fence needs to be dealt with by the Road Department and the County Attorney. At their March 25, 2003, meeting the Gallatin County Planning Board recommended approval of two variances (9:0 vote on the right-of-way variance and 7:2 vote of paving width variance), and voted unanimously (9:0) to recommend approval of the subdivision. Mr. O'Callaghan briefly outlined the primary criteria, going into detail regarding fire the protection conditions. The following

was requested by the Amsterdam Rural Fire District: a. *Applicant shall provide a water storage facility of 20,000 gallons with a dry hydrant that meets Amsterdam Rural Fire Department standards.* b. *All new development in the subdivision shall include sprinkler systems that meet NFPA standards.* c. *Crestline Drive shall have a 40-foot right-of-way and shall be constructed to a 22-foot paved surface.* d. *All T-turnarounds shall be paved with length, ingress and egress dimensions to be approved by Amsterdam Rural Fire Department.* He pointed out that one of the fire departments requests were different from the variance that the applicant was requesting. The following exhibits were attached to the staff report: Exhibit "A", letter from the Sheriff; Exhibit "B", letter from the Road Department; Exhibit "C", two letters from the Amsterdam Rural Fire District; Exhibit "D", letter from Environmental Health Services; Exhibit "E", letter from the Gallatin County Trails Advisory Committee; Exhibit "F", letter from C & H Engineering; Exhibit "G", two letters of concern regarding access. The Gallatin County Commission has three determinations to make with this application: A determination whether approve the proposed plat. The basis for the County Commission decision shall be whether the preliminary plat of the Sara Terrace Major Subdivision, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, and the Gallatin County Subdivision Regulations; a determination whether to approve the requested variances. Section 13.A of the Subdivision Regulations authorizes the Commission to grant "reasonable variances. . . where it is found that strict compliance is not essential to the public health, safety and general welfare." ; and a determination whether or not to accept the Planning Board's recommended modifications to Staff Suggested Conditions. (Underlines and strikeouts reference the Planning Board's suggested modifications). If the County Commission approves the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. 2. Applicant shall obtain approval from Montana Department of Environmental Quality. Applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. Applicant shall obtain the Gallatin County Health Officer's approval. 3. The following documents shall be submitted to the Gallatin County Attorney's Office at least 30 days prior to scheduling a hearing for final plat approval: documents establishing the property owners' association, and the certificate of a licensed title abstractor. The County Attorney's Office shall review and approve documents establishing the property owners' association, and certificate prior to final plat approval. Covenants shall be submitted to the Planning Department for review and approval at least 30 days prior to final plat approval. 5. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district. 6. All utility easements shall be shown on the final plat. Utility easements shall be **20 feet wide**, and located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "Utility Easement" to have and to hold forever.* 7. Prior to final plat approval, applicant shall obtain a letter from the appropriate utility companies verifying the adequacy of the utility easements. 8. A memorandum of understanding shall be signed between the Weed Control District and applicant prior to final plat approval. All areas disturbed during construction shall be reseeded with vegetation types approved by the Weed Control Supervisor. 9. All road names for interior roads must be approved by the County GIS Department. 10. A detailed signage and drainage plan shall be submitted to the County Road Office for approval, prior to the start of any new construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County and/or State maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 11. Encroachment permit(s) shall be obtained from the Montana Department of Transportation office for any access points coming off of State-maintained roads. Additionally, all internal lots will be limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road. 12. A "no-access" strip is required along all lot boundaries that border State secondary roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception will require further review and an encroachment permit from Montana Department of Transportation. **13. All interior roads must be built to County standards, and have a sixty (60) foot right of way, dedicated to the public, unless other County road standards apply (unless a variance is approved).** 14. The three T-turnarounds shown on the plat shall be built to County standards and approved by the local Fire District. 15. A pre-construction meeting shall be set with the County Office prior to the start of any construction. 16. All roadwork shall be built to Montana Public Works Standard Specifications (Fourth Edition, January 1996), inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Office in writing prior to submitting an application for final plat approval.

17. A "Property Owner's Association" shall be formed for the maintenance of all interior roads. A copy of the Property Owner's Association bylaws shall be submitted to the County Road Office prior to final plat approval. 18. The "Property Owner's Association" shall enter into a joint agreement with the property owner's associations of the surrounding subdivisions for maintenance of adjacent access roads. 19. All areas of public right-of-way disturbed during construction activities must be sodded or reseeded prior to final plat approval. 20. Applicant shall record the following covenants with the final plat: a) *The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. Both unimproved and improved lots shall be managed for noxious weeds. In the event a landowner does not control the noxious weeds, after 10 days notice from the property owners' association, the association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment.* b) *Lot owners and residents of the Sara Terrace Major Subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* c) *Individual lot accesses from County public roads shall be built to Subdivision Regulation standards(Section 7.G.2).* d) *Mobile home stands shall be equipped with anchors and tie-downs in conformance with the appropriate building code.* e) *The property owners' association shall be responsible for maintenance of interior subdivision roads.* f) *All exterior boundary fences shall be maintained by the property owners' association.* g) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* h) *All internal lots will be limited to one driveway access. Each access must be at least 75 feet from the nearest intersecting County road.* 21. Applicant shall make payment of road impact fees in accordance with the Subdivision Regulations. 22. Applicant shall make payment of fire protection impact fees in accordance with the Subdivision Regulations, for the two undeveloped lots. 23. Prior to final plat approval, applicant shall provide Amsterdam Rural Fire Department a copy of the final plat. Applicant shall obtain a letter from Amsterdam Rural Fire Department indicating that all required fire protection conditions have been satisfied. Fire protection conditions include: a) *Applicant shall provide a water storage facility of 20,000 gallons with a dry hydrant that meets Amsterdam Rural Fire Department standards.* ~~b. All new development in the subdivision shall include sprinkler systems that meet NFPA standards.~~ c) ~~Crestline Drive shall have a 40-foot right-of-way and shall be constructed to a 22-foot paved surface.~~ d) *All T-turnarounds shall be paved with length, ingress and egress dimensions to be approved by Amsterdam Rural Fire Department.* 24. Prior to final plat approval, the fence along the west property boundary of the subdivision must be removed from the right-of-way, or 40 feet of right-of-way shall be dedicated along the west property boundary, extending from the north property line of lot 20 to the south property line of lot 17. 25. The road along the west property boundary shall extend from the north boundary of lot 20 to the south boundary of lot 17 and shall be constructed to County standards (unless a variance is obtained). 26. Prior to final plat approval the applicant shall remove all speed bumps from the dedicated public right-of-ways. 27. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. Because this has been in existence for well over 20 years with structures located on most of the lots, Mr. O'Callaghan noted it might be a bit of a struggle to make everything fit into the standards of the Subdivision Regulations. One of those things would be the utilities easement therefore a condition of final plat required a letter from the utility companies stating the easements were appropriate. He noted that condition #13 would need to be modified if the variance was approved. He suggested if it was determined to keep condition 23(b), regarding sprinklers that it be made a covenant. He suggested condition #24 read as follows: 30 feet of right-of-way shall be dedicated along the west property boundary, extending from the north property line of lot 20 to the south property line of lot 17. He did not include the Trails Advisory Committee recommendations as conditions of approval however he drafted language if the Commission wanted to include it as follows: Condition #28- "Prior to final plat approval the applicant shall construct a trail connecting Park A to Park B"; and condition #29- "Applicant shall dedicate a 35-foot wide trail easement on the east side of lot 7 adjacent to Churchill Road". The applicant's representative Mark Chandler of C & H Engineering reiterated plans for the proposal outlining the accesses; roads; variances; parkland; covenants; water supply; and sanitation facilities. He stated that this would be a very low impact subdivision because 18 of the 20 lots currently have residences. Mr. Chandler commented on the fire protection requirements, noting that the Board wanted it to be known that they stood behind the conditions as written in their letter dated March 17, 2003. Commissioner Mitchell questioned whether or not the two parks are useable being separated, noting her preference would be to see all the parkland in one spot. The turn around "T" in the middle of

park A was also a concern. She was not sure the layout would work and was not convinced there was a hardship for granting a variance for the reduced width. Mr. Chandler explained that without the reduced width the right-of-way would be right up next to some of the existing homes. Their rationale was that if it has worked for 30 years why can't it work in the future. The applicant Wesley Lowe explained his reasons for subdividing the property and the advantages to the homeowners. It was his understanding from a January 6 meeting with the Fire Department that if the roads were approved there would be no other conditions. He then received a letter dated March 12 from the Fire Department with condition requirements. He realized the necessity however he questioned the motive because of the existing adjacent subdivisions that do not have water tanks. He also pointed out that mobile homes are not built with sprinkler systems. Mr. Lowe was not in agreement with the 35-foot bike path, adding that it would be useless because it would only be 100-feet long. He also noted that the speed bumps were needed for safety although the Fire Department did not want them. Del VanDenBerg, Chairman of the Amsterdam Board of Trustees explained that originally they were told there would be no development in this subdivision. He clarified in detail how the Board came to their conclusion as to whether this proposal should be considered a major or minor subdivision and which conditions they would require with regard to water and roads. He confirmed that the requirement of sprinklers would be only for the two new lots and any new home or structure on the other lots. Further discussion took place with regards to whether or not the current road width would permit emergency vehicles, and water sources in adjacent developments. Public comment was closed. Commissioner Murdock suggested addressing the fire issue by putting language in that is used in other subdivisions and letting the Fire District and Mr. Lowe negotiate. Mr. VanDenBerg did not agree. Commissioner Murdock was not in favor of asking for sprinklers especially in this case when there might be an alternative. He agreed with Mr. Lowe's argument regarding sprinkler systems. He was in support of the subdivision and liked what was being done, stating that it met part of the Master Plan for providing affordable housing in the Churchill Amsterdam area. He asked that the developer put the trails in as suggested by staff, noting 10 feet would be adequate. Commissioner Murdock suggested making a motion to delete condition #23(b), leave 23(a) as is, add 23(c), and add suggested conditions #28 and 29 as suggested by staff. Commissioner Mitchell was not ready for a motion, adding that she was not in favor of the trail requirements and did not believe they had anything to legally back it up. She preferred the applicant put money into reasonable width streets. She also questioned whether or not this would meet what would be required for a subdivision because of the numerous requests by the applicant to not adhere to the subdivision regulations adding without adequate requirements, there are liabilities. She preferred the applicant sell this as a mobile home park. Commissioner Murdock moved to grant the variance to a 40-foot width right-of-way on all the streets, finding it would create an undue hardship, given the existing nature of the affordable housing subdivision by making them comply with the full standard. Seconded by Commissioner Vincent. Commissioner Mitchell questioned if they could require 20 foot paving from the 40-foot right-of-way. Mr. O'Callaghan stated that the applicant requested a variance down to a minimum of 16-feet. Commissioner Murdock withdrew the motion. Commissioner Vincent approved the withdrawal. **Commissioner Murdock moved to approve the variance, finding that it would create an undue hardship, to reduce the right-of-way to 40-feet with a reduction of the paving requirement to 22-feet. Seconded by Commissioner Mitchell. None voting nay. Motion carried.** It was noted that the single motion addressed both variances. **Finding that the subdivision complies with the Gallatin County Master Plan and Subdivision Regulations, Commissioner Murdock moved to approve the subdivision with the conditions as presented by staff and amended as follows: change condition #13 to read: All interior roads shall have a 40-foot right-of-way, dedicated to the public and be paved to a minimum of 22-feet in width; change condition #23 to read as follows: Prior to final plat approval, applicant shall provide Amsterdam Rural Fire Department a copy of the final plat. Applicant shall obtain a letter from Amsterdam Rural Fire Department indicating that all required fire protection conditions have been satisfied. Fire protection conditions include: a. Applicant shall provide a water storage facility of 20,000 gallons with a dry hydrant that meets Amsterdam Rural Fire Department standards. b. Crestline drive shall have a 40-foot right-of-way and shall be constructed to a 22-foot paved surface. c. All T-turnarounds shall be paved with length, ingress and egress dimensions to be approved by the Amsterdam Rural Fire Department: change condition #24 to read as follows: 30-feet of right-of-way shall be dedicated along the west property boundary, extending from the north property line of lot 20 to the south property line of lot 17; add condition #28 to read as follows: Prior to final plat approval the applicant shall provide a trail connecting Park A to Park B; add condition #29 to read as follows: Applicant shall provide a 10-foot trail wide easement along lot 7 adjacent to Churchill Road; change condition #25 to read as follows: The road along the west property boundary shall extend from the north boundary of lot 20 to the south boundary of lot 17 and shall be constructed to County standards, except regarding the variances hereto for granted. Seconded by Commissioner Mitchell,** noting her support for everything except the trail easements. She felt that requiring the trail easements without any kind of backing was inappropriate to require at this point and time. Since the applicant was not in agreement and given the steepness of slopes and the non-usability

of park she found the common sense rationale for the trails request was lacking. **None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 12:38 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 15TH DAY OF APRIL 2003

The meeting was called to order by Chairman John Vincent at 9:05 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

APRIL 7, 2003

- On the advice of the County Attorney, Chairman Vincent determined executive session to be in order pursuant to state statute MCA (2-3-112 (2)) to discuss ACLU issues. Also present were Commissioner Bill Murdock, Sheriff Jim Cashell, County Attorney Marty Lambert, Grants Administrator Larry Watson, Facilities Administrator Bob Isdahl, and Architect Dick Prugh, Prugh and Lenon Architects. Immediately following the executive session, the commissioners attended a regularly scheduled office meeting. In attendance were Commissioner Jennifer Smith Mitchell, Commissioner John Vincent, Commissioner Bill Murdock, Auditor, Jennifer Blossom and Commission Assistant, Christina Thompson. Ms. Blossom discussed concerns pertaining to the Detention Center inmate trust fund and suggested creating a policy related to spending on incentive or miscellaneous items for inmates.
The Commissioner continued to discuss approval on the ITS Network Administrator Position. The commissioners agreed to speak to Randy Kuyath further before making a motion. Commissioner Vincent discussed approval to help fund the "M" restoration project and Commissioner Murdock and Commissioner Mitchell denied approval.
The Commission considered approval of an application for Tim Dean Construction for Logan Landfill to charge tipping fees. Commissioner Murdock moved to approve. Commissioner Mitchell seconded. All voted aye. Motion carried unanimously.
The Commission considered approval of an asset disposal request from the Missouri River Drug Task Force. Commissioner Mitchell moved to approve. Commissioner Murdock seconded. All voted aye. Motion carried unanimously.

APRIL 8, 2003

- The Commission conducted regular County business.

APRIL 9, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners discussed the requirement from DEQ for a paper fence at Logan Landfill. Commissioner Murdock made a motion to approve the purchase of a paper fence for the landfill, finding that Finance Officer Ed Blackman has confirmed availability of funds from the landfill budget. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero. No other action was required on the remainder of the agenda.

APRIL 10-11, 2003

- The Commission conducted regular County business.

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- Landfill Revenue for March 2003: \$31,180.65.

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- Payroll for March 2003: \$1,250,175.12.
- Clerk & Recorder's Fees Collected for March 2003: \$92,859.98.
- A-101's for March 2003: \$8,185.90.
- New Hire Report for March 2003: Gregory Bishop, Anne Dartman, Sherri Douma, Angela Frederick, Nicole Harbin, Wylie Herrera, Alisha Lawson, Mandy Pearson, Christina Thompson

Terminated Employees' Report for March 2003: Kevin Bright, Karen Claes, Sam Clark, Kendra Claussen, Bonnie Edwards, Jeanine Fillinger, Michael Haeder

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated April 10, 2003, in the amount of \$274,973.54.
2. Request for Common Boundary Relocation Exemption for Guttman. Continued indefinitely.
3. Request for Common Boundary Relocation Exemption for Jerry K. and Linda L. Wortman, described as Tract A and Gravel Pit Tract on COS 992, located in the NE ¼ of Section 2, T3S, R4E, PMM, Gallatin County, Montana. (77450 Gallatin Road, Gallatin Gateway, MT). Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Correction Survey for Cora Rall, located in the SE ¼ of Section 8, T1S, R6E, COS 1457, PMM, Gallatin County, Montana. (8373 Saddle Mountain Road, Bozeman, MT). Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Approval of Contract(s): Morrison-Maierle RID Vegetation Control, FY 2003-2004 Task Order; Morrison-Maierle RID Fog Seals Maintenance FY 2003; and Morrison-Maierle RID FY 2003-2004 Maintenance Contract.

Commissioner Vincent announced that consent agenda Item #2, was to be continued indefinitely. Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Murdock moved to approve the consent agenda as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Murdock read the proclamation declaring April 13-19, 2003, "National Public Safety Telecommunicator's Week". Representing the telecommunicators were Ben Hess, Director of 911, Mark Tymrak, Director of Public Safety, and a dispatcher. Commissioner Murdock presented a plaque to the dispatcher. Motion declaring the proclamation was made in a prior office meeting. **No action taken.**

Gallatin County Finance Officer Ed Blackman reported on the public hearing and consideration of a resolution amending the Belgrade Rural Fire District FY 2003 budget by appropriating \$100,000 in revenues received from Fire Impact Fees for the purchase of land for construction of a new headquarters and training facility. The District agreed to reimburse and hold the county harmless if impact fees have to be refunded. The \$100,000 is to be used as a down payment on land with their operating budget absorbing the cost of monthly or annual payments. Mr. Blackman confirmed that according to the policy this would be a proper use of impact fees to enhance the capabilities of the fire department. There was no public comment. Commissioner Murdock was satisfied this was a proper use of the impact fees although he received one phone call by a member of the public expressing concern of approving the expenditure of these funds on an item that had been voted on and turned down. **Commissioner Murdock moved to approve Resolution #2003-034. Seconded by Commissioner Vincent.** Commissioner Mitchell noted that she had expressed her concerns at last weeks hearing. She believed a failed vote showed lack of public support. **Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Public hearing and consideration of a recommendation from the Criminal Justice Coordinating Council for the Criminal Justice Assessment Consultant was continued until members of the Council were present. **No action taken.**

Gallatin County Grants Administrator Larry Watson reported on the continuation of receipt and opening of bids, CTEP Old Manhattan Bank Building Renovation and Exterior Improvements, STPE 16(37). Mr. Watson recommended the bid award to R & R Taylor Construction, the low bidder in the amount of \$97,800. With the Commission's approval they will give notice to proceed. There was no public comment. **Commissioner Mitchell moved to approve the R & R Taylor Construction bid for \$97,800, and issue notice to proceed. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a resolution to adopt reduced land use permit fees for agricultural structures with County Zoning Districts. The purpose of the policy is to help clarify the business of agriculture and the regulation of such uses as allowed under law. It is the Planning Department's intent to charge an administrative fee for the review of structures, the primary purpose of which are to support a legitimate agricultural operation. If the structure does not meet the criteria described under Policy #2003-01, said structure is subject to the Planning Department's standard land use permit fees. On March 13, 2003, the Planning and Zoning Commission set the land use permit fee at \$50 for agricultural structures within the County's "101" zoning districts (5:0 vote). At the April 8, 2003, meeting the Planning and Board recommended that the land use permit fee be set at \$50 for agricultural structures within the County's "201" zoning districts (5:1 vote). An applicant wishing to obtain an agricultural structure assessment and submit a reduced fee, must provide the following evidence to the Planning Department: The current year tax assessment notice from the Department of Revenue showing that the property is taxed as agricultural land under 15-7-202 MCA. Public comment: Charles Craft stated he was not aware of a fee for agricultural buildings in the Hyalite Zoning District. Mr. O'Callaghan confirmed the only zoning district that did not have one was the Bear Canyon Zoning District. Commissioner Murdock stated that he did not think there should be a fee at all for those who qualify for agricultural structures. **Commissioner Mitchell moved to approve Resolution #2003-035; finding that this is a reduction for the agricultural community and it is basically an administrative review fee to make sure one is not in violation. Seconded by Commissioner Vincent, adding that he believed they had the obligation to charge a reasonable fee for administrative costs in processing an application and not transfer that cost to other taxpayers. Commissioners Mitchell and Vincent voting aye. Commissioner Murdock voting nay. Motion carried.**

Commissioner Vincent announced that they would skip regular agenda Item #6 and consider regular agenda Item #7 next.

Gallatin County Planning Director Jennifer Madgic reported on the public hearing and consideration of a resolution to adopt the Gallatin County Growth Policy. The resolution of intention to adopt was passed on March 25, 2003, with some amendments. Notice was published twice in the High Country Independent Press and once in the Bozeman Daily Chronicle. The Commission made a commitment to re-review the Growth Policy in six months following the initial adoption. This would give them time to work and improve the land use diagram and work with the agricultural community on the goals and policies in Chapter 3 related to agriculture. Time was also needed to update the corresponding resource document mentioned in Growth Policy. Ms. Madgic commented on some upcoming changes with regard to Senate Bills 326 and 340. It was recommended that the Commission appoint or organize a committee to work for the next six months on some of the revisions and updates. Ms. Madgic added that they are working to coordinate Subdivision Regulation amendments with the Growth Policy. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-036. Seconded by Commissioner Murdock.** The Commission commented on the time and effort put into the Growth Policy, noting the lack of public testimony today was verification of the fact that they made an honest effort to include all parts of the county and different perspectives. **None voting nay. Motion carried.**

District Court Judge Mike Salvagni, speaking as Chairman of the Criminal Justice Coordinating Council reported on the public hearing and consideration of a recommendation for the Criminal Justice Assessment Consultant. When the decision was made to undertake an assessment of the Gallatin County criminal justice system, a System Assessment Task Force was created by the Council and Judge Salvagni appointed those members as follows: Bill Tietz, Archie Alexander, Gus Pfaehler, County Attorney Marty Lambert, Sheriff Jim Cashell, and Detention Center Administrator Anita Shaw Tymrak. Judge Salvagni pointed out that these members came with diverse interests and points of view concerning this project and the system assessment itself. The Task Force recommended to the Council that David Bennett of Park City, Utah be hired as the Systems Assessment Consultant. The Criminal Justice Coordinating Council unanimously recommended that the Commission hire Mr. Bennett to undergo this assessment. Judge Salvagni personally reviewed Mr. Bennett's proposal and believed he was an excellent choice to do this study. On behalf of the

Criminal Justice Coordinating Council he urged the Commission to accept their recommendation to hire Mr. Bennett. Bill Tietz submitted Exhibit "A", a chronology of the process leading up to the Task Force recommendation. Mr. Tietz summarized the chronology. There were 19 full pledged proposals received and 6 were selected by a system of numerical analysis. David Bennett stated that he was honored and excited to have been selected for this project. He spoke regarding his 25 years experience as a consultant. He stated that he would be looking at all of the aspects of the criminal justice system while working with all the individuals within the system as well as the community to put together a plan that will provide the blue print of what the new jail and the criminal justice system will look like. Gus Phaepler spoke in support of the recommendation, adding that he believed the need for a new jail would result from this assessment. **Commissioner Murdock moved to approve the recommendation of the CJCC and the committee.** He commented that Judge Salvagni did a very perceptive job of putting together the diverse membership of the committee. **Seconded by Commissioner Mitchell,** adding that she was pleased they were proceeding with this study that she suggested, requested, and found an obvious need for. Her expectations were that Mr. Bennett gives them a fair, balanced, objective, and thorough report without preconceived notions or direction and that he look at all the issues including the structure and not have preconceived notions for a new jail or a remodeled jail. Commissioner Vincent noted it was commendable that the group worked together and arrived at a consensus. He believed the consensus and unanimity that they have seen so far ought to be continued, adding that he will as a Commissioner accept the recommendations of this consultant whether he agrees or not. **None voting nay. Motion carried.**

Gallatin County Planner Karin Caroline reported on the public hearing and consideration of a request for Tracy Poole on behalf of Glen and Linda Kraft for preliminary plat approval for the Hyalite View Estates Minor Subdivision, located in the SE ¼ of Section 2, T2S, R5E, PMM, Gallatin County, Montana. The property consists of approximately 25 acres and is described as Tract A of COS 2268 and is generally located on South 19th Avenue. The subdivision will be serviced by individual on-site wells and septic systems. Ms. Caroline summarized the primary criteria for the Commission to evaluate for considering the subdivision along with the suggested conditions. The Commission needs to make the following determination: A determination whether or not to approve the proposed subdivision. The basis for the Commission's decision shall be whether the preliminary plat and additional information, demonstrate that development of the subdivision meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act and provisions of the Gallatin County Subdivision Regulations. If the County Commission approves of this application, the following conditions for final plat approval are suggested: 1. Subdivision Specific Conditions: 1. Permanent access to Tract B (adjacent lot to the south) shall be provided from the proposed paved interior subdivision road by way of a new driveway approach, unless negotiations with the owner of Tract B allow for the continued existing joint access (60-foot right-of-way) centered on the common lot line to be utilized. Should Tract B take its primary access from the proposed interior subdivision road, the existing access onto South 19th Avenue shall be removed. Two accesses onto South 19th Avenue in near proximity to each other will not be allowed. Any access arrangement shall be subject to review and approval from the County Road Office. Standard Subdivision Conditions: 2. All areas of the public right-of-way disturbed during construction shall be sodded or reseeded with vegetation types approved by the Weed Control Supervisor. 3. Prior to application for Final Plat approval, the applicant shall enter into a Memorandum of Understanding (MOU) with the Weed District. The MOU shall be signed between the Weed District and the applicant prior to Final Plat approval. The applicant shall submit the signed MOU at the time of application for Final Plat approval. 4. All road names for interior roads shall be approved by the County GIS Department. 5. A detailed signage and drainage plan shall be submitted to the County Road Office for review and approval, prior to the start of any construction. The plan shall specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this shall be addressed in the plan. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition. 6. Encroachment permit(s) shall be obtained from the County GIS or Road Office for any access points coming off of County maintained roads. Additionally, all internal lots shall be limited to one driveway access. Each access shall be at least seventy-five (75) feet from the nearest intersecting County road. 7. A "No Access" strip shall be required along all lot boundaries that border County maintained roads. Exception to this will only be made for lots that do not border an internal subdivision road. Access to lots falling under this exception shall require further review and the obtaining of an encroachment permit from the County Road Office. 8. All interior roads shall be built to County gravel standards, and have a sixty (60) foot right-of-way, dedicated to the public, unless other County road standards apply. 9. A cul-de-sac, built to County standards and acceptable to the local Fire District, shall be required at the west end of the proposed subdivision access road. 10. A pre-construction meeting will need to be set with the County Road Office prior to the start of any construction. 11. All roadwork shall be built to Montana

Public Works Standard Specifications, Current Edition, inspected and certified by a licensed engineer. Such inspection and certification shall be provided to the County Road Office in writing. Final approval shall not be given until this documentation is received. 12. All utility easements are to be shown on the Final Plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the Final Plat: *"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever"*. 13. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 14. The applicant shall obtain approval of lot sizes for individual water supply systems and septic tanks and disposal fields or approval of neighborhood water supply and disposal systems from MDEQ and the Health Department. The applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicant shall obtain the Gallatin County Health Officer's approval. 15. Per Section 6.E (Fire Protection Requirements) of the Gallatin County Subdivision Regulations, the applicant shall provide an adequate water supply for fire protection. The applicant shall have the fire district review and approve the water supply prior to Final Plat approval. The applicant shall obtain written verification from the fire district that the required water supply has been provided and all necessary requirements have been met. 16. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. 17. If mail delivery will not be to each individual lot within the subdivision, the applicant shall provide an off-road area for mail delivery within the subdivision in cooperation with the United States Postal Service. It shall not be the responsibility of the County to maintain or plow any mail delivery area constructed within a County right-of-way. 18. A "Homeowners' Association" shall be formed for the maintenance of all interior roads. A copy of the Homeowners' Association bylaws shall be submitted to the County Road Office prior to Final Plat approval. 19. A property owners' association for the subdivision shall be created. 20. Covenants for the subdivision shall include the following provisions: a. All structures shall be constructed in compliance with Montana adopted codes for construction, including codes for Seismic Zone 4, and the National Fire Protection Association Codes. b. The control of noxious weeds by the Property Owners' Association on those areas for which the Association is responsible and the control of noxious weeds by individual owners on their respective lots shall be as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot. In the event a landowner does not control the noxious weeds, after 10 days notice from the Homeowners' Association, the Association may cause the noxious weed to be controlled. The cost and expense associated with such weed management shall be assessed to the lot and such assessment may become a lien if not paid within 30 days of the mailing of such assessment. c. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. 21. Two copies of the covenants, a copy of the preliminary approval document, documents establishing the property owners' association, and the certificate of licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for Final Plat approval. The Attorney's Office shall review and approve the covenants, documents establishing the property owners' association, and the certificate of title abstractor prior to Final Plat approval. 22. The Final Plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates (Section 5.E). 23. Conditional approval of the Preliminary Plat shall be in force for not more than three calendar years, as provided by State statute. Prior to that expiration date, the developer may submit a letter of request for the extension of the period to the Planning Director for the County Commission's consideration. 24. If it is the developer's intent to file the plat prior to the completion of all required improvements, an Improvements Agreement shall be entered into with Gallatin County guaranteeing the completion of all improvements in accordance with the Preliminary Plat submittal information and conditions of approval. If the Final Plat is filed prior to the installation of all improvements, the developer shall supply Gallatin County with an acceptable method of security equal to 150% of the cost of the remaining improvements. Gallatin County Sheriff's Department Suggested Condition: 25. The applicant shall pay a mitigation fee to the Gallatin County Sheriff's Department for the proposed subdivision's impact on law enforcement. The formula used shall be the following (see Exhibit A): RESIDENTIAL CALCULATIONS: _____ # of units x 2.5 persons per residential unit = _____ persons (times) \$89.82 (\$89,815/1,000) - _____ residential mitigation for subdivision. Based on the above formula, the mitigation fee for the proposed Hyalite

View Estates subdivision over a five-year period would be \$4,846.88. Ms. Caroline outlined issues regarding access, noting the site would be served by an ingress/egress from South 19th Avenue to the interior 5 lots. One lot to the south, Tract B of COS 2268 has the option of accessing onto the proposed interior road, Hyalite View Road with the elimination of its existing access onto South 19th Avenue. An alternate to this option would be for the applicant to work with the owner of Tract B of COS 2268 to obtain a shared public access (60-foot right-of-way) centered over the common lot line between the two properties, which would maintain the existing access from South 19th Avenue. It was noted that the applicant and the neighbor have agreed to use an access coming off the interior road. An addendum was provided to the Commission to change condition #15 to read as follows: "Applicant shall provide water supply for fire protection in accordance with the Gallatin County Subdivision Regulations. Applicant shall have the Sourdough Fire District review and approve the necessary fire protection prior to Final Plat approval. The applicant shall obtain written verification from the fire district that the required fire protection measures have been provided. The basis for the fire protection requirements will be no less than those requirements as set forth in the letter from Brian Crandell dated February 18, 2003 and agreed upon by the applicant". Ms. Caroline explained that Brian Crandell, of the Sourdough Fire District was concerned with condition #15 as written in the staff report. For that reason the addendum was drafted to address Mr. Crandell's concerns. Upon further discussion prior to this meeting, Mr. Crandall suggested striking the first line of condition #15, as proposed in the addendum. Ms. Caroline pointed out that it was standard language used by staff in all subdivision review. Mr. Crandell believed that language would allow an applicant the opportunity to choose between the variety of fire protection measures, which the Subdivision Regulations allow. Further discussion took place with regard to the last sentence of the addendum and whether or not it should be deleted. Tracy Poole, the applicant's representative commented that he had discussed with Mr. Crandell the letter dated February 18, 2003, and they were in agreement with the letter. Ms. Caroline noted that the letter required sprinkler systems, rather than being an option. It was determined if they were to strike the last sentence in the addendum, that there would be no significant difference in the original condition #15, as written or the addendum. There was no public comment. Gallatin County Planning Director Jennifer Madgic advised against including reference to the February 18th letter from the Mr. Crandell, stating that those requirements go above and beyond the Subdivision Regulations. Commissioner Mitchell suggested that they strike condition #25, finding there was no policy. **Commissioner Mitchell moved to approve the preliminary plat request for the Hyalite View Estates Minor Subdivision, with all the conditions through #24, as suggested by staff and agreed to by the applicant, finding that it meets all the Statute requirements, Subdivision Regulations, and the Zoning Districts requirements. Seconded by Commissioner Murdock.** Gallatin County Attorney Marty Lambert commented with regards to Mr. Crandell's letter. He supported the Commission's decision with regards to conditions #15 and 25. Commissioner Vincent stated that he would vote in favor however he was concerned, given the sheriff's letter stating they do not have the law enforcement capability to provide the safety services expected. Because this was a minor subdivision, in a zoning district, and relatively close to Bozeman he could overlook it. **None voting nay. Motion carried.**

Gallatin County Planner Christopher Scott reported on the continuation of public hearing and consideration of a request for preliminary plat approval for the Bright Minor Subdivision. Mr. Scott summarized the proposal, noting that a continuance was requested at the April 8, 2003 hearing so the Commission could question the applicant. He also reminded the Commission that the applicant is proposing irregular lots. Section 6.B.1 of the Gallatin County Subdivision Regulations states lot designs with irregular shapes, narrow necks, points and flag shapes shall be permitted only when the subdivider can demonstrate that the proposed lot designs are necessary due to topography or other physical constraints. If denied the applicant would have to apply for a variance. At the April 8th hearing it was suggested by Commissioner Murdock to strike condition #15, regarding the sheriff mitigation fee. Mr. Scott also suggested because of the prior agenda item that condition #12 be changed to reflect the same language as the Hyalite View Estates Minor Subdivision with regards to fire protection requirements as follows: "Per Section 6.E (Fire Protection Requirements) of the Gallatin County Subdivision Regulations, the applicant shall provide an adequate water supply for fire protection. The applicant shall have the fire district review and approve the water supply prior to Final Plat approval. The applicant shall obtain written verification from the fire district that the required water supply has been provided and all necessary requirements have been met". The applicant Keith Bright responded to questions concerning traffic on Huffine Lane and access to his proposed development. He explained that when Huffine Lane was changed from a 2 lane to a 4 lane they put a turning lane into his property, and the state widen both the approaches. He has two entrances or exits off that property. He stated that the right-of-way to the back is to allow common access between the lot he is proposing and the existing lot. He noted that there would be truck traffic from his property although there will be strict covenants on what he will allow on the other lots. With regard to the lot lines, Mr. Bright stated the reasoning was to accommodate existing structures and drain fields. There was no public comment. Commissioner Murdock did not believe the lots need a variance, adding that they comply with the

Subdivision Regulations especially lot 3 lends itself well to a new commercial building landscaping on Huffine Lane, frontage and parking at the rear of a new building and existing buildings. He believed it works as far as one access for all three lots. **Finding that the application meets the requirements of Section 76-3-608 MCA, the Montana Subdivision and Platting Act, and that the lots conform to Section 6.B.1, Lot Dimensions and Orientation, Commissioner Murdock moved to approve with all the conditions as presented by staff with the following exceptions: striking condition #15, and substitute the following language for condition #12: "Per Section 6.E (Fire Protection Requirements) of the Gallatin County Subdivision Regulations, the applicant shall provide an adequate water supply for fire protection. The applicant shall have the fire district review and approve the water supply prior to Final Plat approval. The applicant shall obtain written verification from the fire district that the required water supply has been provided and all necessary requirements have been met".** Seconded by Commissioner Mitchell. None voting nay. Motion carried.

There were no pending resolutions. There being no further business the meeting was adjourned at 11:05 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 22ND DAY OF APRIL 2003

The meeting was called to order by Chairman John Vincent at 9:02 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

APRIL 14, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Mitchell, and assistants Christina Thompson and Glenda Howze. Commissioner Mitchell discussed Phase III progress including restoring the revolving door near the front steps of the courthouse. Commissioner Mitchell stated that there is money in the budget and that Ed is working on this project.

The Commissioners considered approval of a contract with Bozeman Little League Inc. for the use of the Law and Justice Center Baseball Fields. Commissioner Vincent felt that the contract should be reviewed by the County Attorney's office for liability.

The Commissioners discussed Valley Center Road and reconsideration on trail width. Commissioner Mitchell felt that based on the study and cost, the trails should remain at 8 feet in width.

The Commissioners considered approval for a Logan Landfill application for Firelight Meadows LLC to charge tipping fees. Commissioner Mitchell made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

The Commissioners considered approval of trade-in on a Xerox Snergix 8825 Scanner/Printer in the Clerk and Records Office. Commissioner Mitchell made a motion to approve said trade in. Commissioner Vincent seconded the motion. All voted aye. Motion carried two to zero.

Discussion took place regarding the air quality in the Accounting Office. Commissioner Mitchell suggested that the excessive hauling of boxes and the dust has caused poor air quality. Commissioner Mitchell asked if the problem existed before and that perhaps an air filter of some sort may be installed in there to alleviate dust. Bob Isdahl will contact the state for a free evaluation.

Lee Provance discussed road issues and the relationship with the City of Bozeman. Ownership issues exist between the two governments over Durston Road and Baxter Lane. Damage to these roads caused by heavy equipment by engineers and contractors make the roads dangerous and inaccessible. Commissioner Vincent and Commissioner Mitchell felt that the roads should temporarily be shut down and a letter be sent out to the city stating Lee's concerns.

APRIL 15-18, 2003

- The Commission conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated April 17, 2003, in the amount of \$137,798.75.
2. Approval of Contract(s): Change Order #2, 3, 4, & 5 to Contract #2002-097; Change Order G-2 to Contract #2002-097; and Agreement for Services, Big Sky Owner's Association/Gallatin County for Snow Removal.

Commissioner Mitchell read the consent agenda. There was no public comment. **Commissioner Murdock moved to approve the consent agenda, as read. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Attorney Marty Lambert read the proclamation declaring May 1, 2003, as "Law Day", in the United States. With the County Courthouse renovation about complete, Commissioner Mitchell noted that August 8, 2003, is scheduled for a rededication. On that day the courthouse will receive a copy of the Declaration of the Independence to put on display that has toured across the United States with the Independence Road Show. **Commissioner Murdock moved to declare May 1, 2003, "Law Day", and adopt the proclamation as read by Mr. Lambert. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Grants Administrator Larry Watson noted the agenda incorrectly stated that this was the public hearing regarding final consideration of FY 2003 CTEP applications. He pointed out that this was the second of two scheduled public hearings on the CDBG Home and Transportation Enhancement Project Programs. There are no applications pending for any of these programs at the present time for which timing is crucial. This is not the final hearing for CTEP proposals; a second hearing is scheduled for May 13, 2003. Public comment for CDBG: Jeff Rupp, on behalf of HRDC sought permission to take HRDC's homeownership initiative to its next level by having Gallatin County seek and sponsor CDBG under the housing activities for \$500,000 to be used as seed money in the homebuyers program. Barbara Campbell with Double Tree Incorporated, speaking on behalf of the private sector encouraged public/private partnership. As part owner of the Northstar Subdivision she indicated that they are willing and able to participate with HRDC and the county in promoting and structuring an affordable housing project. Public comment for CTEP: Manhattan Mayor Eleanor Mest submitted four letters of support from the following: Manhattan Rotary; Manette Hrusa; Karen Manley; and Carol Buchanan. Ms. Mest thanked the Commission for their past support of Manhattan projects. Speaking in support of the request for CTEP funds for a trail project in the Manhattan area, Ms. Mest outlined the proposed phases of the trail project. Commissioner Murdock believed that this project was consistent with some of the priorities in the County Trails project adopted as part of the Master Plan, noting it would lend support for their application. Ramona Stout, Superintendent of Manhattan Public Schools spoke regarding the need for a trail for the school children for safety purposes. Joyce Zacher spoke in support of the trail, also pointing out safety issues. Bob DeWitt commented that he has served on the Manhattan Planning Board for several years, noting that they have paid a lot of attention to outdoor recreational needs, safety, and traffic enhancement. He added that this is one topic that keeps coming back and has been a long-term community goal. Ed Zacher spoke in support of the project. Mayor Gene Townsend representing the Headwater's Trail project (Three Forks) and the Heritage Trail project (that meets and joins with the Headwater's Trail project to get to the Missouri Headwaters State Park) outlined the trail projects as shown on a map submitted to the Commission. He noted that this is the fifth year they have received a grant from the Montana Recreation Trails, administrated by the Department of Transportation and the Fish, Wildlife and Parks. He has also started a project to sell trail by the foot. A foot of trail costs approximately \$9.47. Mr. Townsend requested \$100,000 of CTEP funds for the continuation of this project going out to the Headwaters and towards Manhattan. Manager of the Missouri Headwater's State Park Ray Heagney, on behalf of Fish, Wildlife and Parks provided some of the details with regard to the project. He noted that part of this process would involve an environmental assessment and some wetland mitigation. He wanted to support both the Manhattan and the Headwater's trails. Heather Geiger spoke in support of the trail in Manhattan. Ms. Zacher noted an error in the Manhattan Rotary letter, stating that it should read (Highway 346). Dave Crawford, with Thomas, Dean and Hoskins Engineering commented that they were helping the Town of Three Forks with the conceptual engineering on the project. Mr. Watson summarized the programs and processing of the funding. Another hearing will be heard on May 13, 2003, for the CTEP projects. Mr. Watson will provide a summary of the funding to the Commission prior to the next hearing. **No action taken.**

Gallatin County Planner Victoria Drummond requested that the public hearing and consideration of a resolution to adopt a fee schedule for creating new zoning districts be continued until May 20, 2003. Staff would like the opportunity to review with the Commission the comments and suggestion made by the Planning Board at their April 8, 2003 meeting. **No action taken.**

Gallatin County GIS Manager Allen Armstrong reported on the continuation of a public hearing and consideration of a resolution for a road name change in Gallatin County. (Lane Drive to Windrider Lane, Bandera Lane, Durango Lane, and Revenger Lane). Mr. Armstrong gave a brief summary of the April 1, 2003 hearing where it was suggested changing Lane Drive to the above mentioned western hat names, in accordance with resolutions #2000-128 and 2002-017, and the State of Montana and the National Emergency Numbering Association Standards. The hearing was continued for three weeks to allow residents an opportunity to meet and deliver a list of preferred names to the GIS office. A notice of public hearing continuation was mailed to each resident informing them of the April 22nd continuation, giving them 10 days to respond with the preferred names. On April 8th, GIS received a petition with 25 signatures from the Lane Drive area to keep the road as Lane Drive. On April 15th, GIS received a letter from an April 12th meeting of the residents presenting 6 preferred road names. On April 16th, GIS received a letter from John and Mary Hecht (owners of 4 lots) suggesting the replacement of Revenger Lane with Whisper Lane. Mr. Armstrong responded to a series of concerns and questions submitted from the residents. It was his recommended that they adhere to the policy and rename the roads because of the problem with duplication and suggested that these changes take effect June 2nd. He suggested using the names provided by the residents in the order they were submitted. The following names were suggested as replacement names: Whisper Lane; Durango Lane; Stubbs Lane; and Rlane Drive. Public comment: Ray Stubbs; Donald Hurlbert; Mark Reinholz; and Ron Green. The following concerns and suggestions were expressed: cost to residents to change their address on documents; requested a list of documents that need to be changed; importance of road signage; house number changes; notification; and tracking of numbers for the phone book database. Commissioner Mitchell questioned if fire impact fees could be used to purchase road signs. Bryan Connelley, Assistant Chief of Belgrade Fire did not believe so. He thought it was tied to the increase in service demand. Discussion took place with regards to possible funding of the signage. Commissioner Vincent believed the county had an obligation when the change is county initiated and hinged solely on public safety however without a policy he was unsure how they would meet that obligation. Communication Services Director Ben Hess spoke regarding the number changes, noting the protocol when a call comes into 911, is that the dispatcher verifies the address the caller is calling from. In regard to the mapping concerns, he noted that the Quest database is constantly being updated within the center. It was determined that Mr. Armstrong would prepare a resolution with the new road names for adoption next week. Commissioner Murdock believed the public's fears and concerns were justifiable reasons therefore he was opposed to this change for the reasons mentioned and concurred that the county should pay for the signs in this case. A resolution will be prepared with the new names and considered possibly next week. **No action taken.**

Gallatin County GIS Manager Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County. (Kirkwood Trail to Kirkwood Creek Road and Kirkwood Trail Loop). This was a county initiated road name change. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-037, finding they have not received any public testimony written or oral. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Manager Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County. (Ghost Village Road to Campfire Lane). This was a county initiated road name change. It was noted an error on the agenda stating this was a portion of Hebgen Lake Road. Frankie Larson signed up to speak but was not available. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-038. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Manager Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County. (A portion of Hebgen Lake Road to Hi Mountain Loop). There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-039. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Manager Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County. (Marina Loop Road to Marina Loop). Mr. Armstrong stated that several comments were received all in support of the new name although they were concerned about the renumbering. He stated the numbers were in fairly good order so if they dropped the first two digits and leave the last three it would work. There was no public comment. Commissioner Murdock stated two letters were received as follows: Tracy Sweeney, President of the Kirkwood Shores Homeowners Association protesting the changing of numbers; and Garth Tanner in support of the renaming of the road and opposing the renumbering. It was uncertain if Ms. Sweeney's letter was on her own behalf or if she was expressing the opinion of the 30 members of the homeowners association. Mr. Armstrong received letters expressing the same concerns from the following: Beth Horn; Jean McCart; and Joan Flatley. Commissioner Murdock received a phone call from Mr. Carter objecting to the change. **Commissioner Mitchell moved to approve Resolution #2003-040. Seconded by Commissioner Murdock. Commissioners Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion carried.**

Gallatin County GIS Manager Allen Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County. (A portion of Hebgen Lake Road to Big Wig Loop). There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-041. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on the public hearing and consideration of a request for a family transfer for Ray and Alice Haugland, located in the SE ¼ of Section 28, T3S, R5E, Parcel 3 in COS 2306, PMM, Gallatin County, Montana. (3483 Pass Creek Road). Ms. Drummond briefly summarized the proposal. The applicant's surveyor Ron Allen clarified that there were no zoning districts near this property as stated by Ms. Drummond. Ray and Alice Haugland were sworn in by Gallatin County Attorney Marty Lambert and testified under oath answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Murdock moved to approve the family transfer, finding it is the proper use of the exemption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on the public hearing and consideration of a request for a family transfer for Lynn M. Huyser, located in the E ½ of Section 16, T3S, R4E, PMM, Tract 1 (29.8723 acres) of COS 2060, Gallatin County, Montana. (2221 Gateway South Road). Ms. Drummond briefly summarized the proposal. Lynn M. Huyser was sworn in by Gallatin County Attorney Marty Lambert and testified under oath answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Commissioner Mitchell moved to approve the Huyser family transfer exemption, finding it meets the requirements of the Statutes to be exempted from subdivision review. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Chris Scott reported on the continuation of a public hearing and consideration of a request for a Conditional Use Permit approval for Annette Jacobs/Faith Community Church and School. The April 8th public hearing to consider a CUP request by Ms. Jacobs was continued to give the applicant an opportunity to provide additional information regarding the driveway encroachment from the subject property onto Bridger Drive. The applicant provided an encroachment permit from MDOT that will accommodate 120 trips in/out on Sunday and 60 trips in/out on Monday through Friday. As part of the encroachment permit, MDOT required the applicant to remove 2 cottonwood trees located east of the new approach to maximize site distance. A photo of the trees looking east was submitted to the Commission. Also received was a letter from the Department of Justice, of the Montana Highway Patrol Division, stating the Highway Patrol currently provides speed enforcement on Bridger Drive and will continue providing speed enforcement for the safety of the motoring public. Mr. Scott noted one issue of concern for the Highway Patrol as stated in the letter would be if a reduced speed limit is needed that the Faith Community Church request the process to make it legal and enforceable by State Law. He reminded the Commission of modifications to the conditions as follows; condition #9- "Prior to occupancy/opening of the church and

school the applicant shall have completed or entered into a zoning improvement agreement approved by the County Attorney for the following work.”; and add a condition as follows- “The applicant shall have a noxious weed management and re-vegetation plan approved by the Weed Control District for the control of noxious weeds prior to occupancy/use of the church and school”. Discussion took place with regards to setting a speed limit process and if it should be added as a condition of approval. The applicant’s representative Attorney Susan Swimley explained that they have to construct the encroachment consistent with the permit and call before starting any construction. Additionally, MDOT stated that once they have the approved CUP for the church and school, they will assign the area for a “School Zone” and “Children at Play” signs and following that they will process the speed reduction. Ms. Swimley clarified there was nothing in writing regarding the speed limit and signs because it was verbal from Rob Buckvich. The applicant agreed to enter into a noxious weed management plan. There was no public comment. Further discussion took place with regard to including in the conditions the MDOT commitment. Gallatin County Attorney Marty Lambert voiced concern that the Commission has no control over MDOT, the Highway Commission, the timing, or state law changes. He was concerned about any condition that would premise upon anything MDOT would do. He stated that they could suggest the applicant be required to provide all the information to support every stage of the process regarding the signage, the application, and the reduction of speed. Commissioner Vincent stated if Ms. Swimley would make that commitment on the record on behalf of her client that would be satisfactory. Ms. Swimley suggested the following condition; “Applicant shall provide all necessary information and comply with all regulatory process which will effectuate postage of signage and speed reduction in front of the property”. Commissioner Murdock did not support this application, which he stated at the prior hearing, for the following reasons: He believed it was inconsistent in some ways with the Bozeman Area Plan and that it will create sprawl, noting it is desired by the Bozeman Area Plan to have a distinction between urban and rural. He stated this was a great project but in the wrong spot, and that it would be adding to a public safety concern on a dangerous road. He added that there was also no trail along the road and would potentially have pedestrians going to the school on Sundays and during the week. **Commissioner Mitchell moved to approve the CUP with all the conditions as revised, and the new ones as added, finding that the impacts are being adequately mitigated and that it meets the requirements of the zoning district or the Gallatin County Bozeman Area as well as the Statutes and whatever legal requirements the Master Plan might influence on this project. Seconded by Commissioner Vincent.** Commissioner Vincent suggested that a private sign be posted for people to see as reminder on their way out to caution high speed traffic on the highway. **Commissioners Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the continuation of a public hearing for a request for preliminary plat approval of the Riverfront Park Subdivision. Mr. Karp summarized the proposal as follows: The Commission reviewed the preliminary plat on March 11th, at which time it was suggested by the developer that the Commission table the review until March 25th, to allow time to acquire additional information from the Montana Department of Fish, Wildlife, and Parks, and for the applicant to provide additional traffic information for the area. The developer requested additional time and the consideration was removed from the March 25th agenda and placed on the April 22nd agenda. The applicant submitted a traffic study from Peccia & Associates and a letter from Fish, Wildlife, and Parks (attached to the staff report). They also submitted a ground water study from Nicklin Earth and Water. The developer requested the following change to the conditions of approval from the March 11th hearing is as follows: condition #5(c): add the word “existing” in front of the word “boundary”. The following conditions are recommended by staff to be added based on George Durkin of the Gallatin County Road Department comments dated March 7, 2003: condition #22-An access road, built to County standards with a temporary cul-de-sac or other approved turnaround, shall be provided to Lots 4 and 5 of COS #1762 and shown on the final plat; condition #23-Spain Bridge Road is required to be upgraded and paved to Gallatin County Standards from Airport Road to the bridge at the East Gallatin River, prior to Phase 1. (this condition would replace condition #19); condition #24-A temporary cul-de-sac or other approved turnaround as approve by the Fire Department is required at the end of Wooley B Road (Pinto Place on the preliminary plat); condition #25-A pre-construction meeting must be completed with the Road Department prior to the start of any road construction; and condition #26- The existing approach at the south end of the project (Parcel 4B of COS #1909B) is required to be consolidated with Stream Seam Street (Roan Road on the preliminary plat) as approved by the Road Department prior to final plat approval”. The road department also requested the developer to prepare a detailed traffic study to identify off-site traffic impacts the development will have on Airport Road. The study will be used to identify primary and secondary access roads, as well as collectors and arterials in the area of impact. Findings from this study may result in the need to have additional right-of-way along certain county maintained road dedicated to the public. The applicant requested an amendment to the first sentence of condition #26 as follows: “The developer would be required to work with the abutting property owner to consolidate the existing approach of the south end of the project (Parcel 4B of COS1909) with Stream Seam Street (Roan Road on the preliminary plat) as approved by the Road Department prior to final plat approval”. Mr. Karp submitted a letter of support to the

Commission from Joe Dahinden, of the Valley Bank of Belgrade. He had also received a call from adjoining property owner Erlene Mazuranich reiterating her concerns about density; dogs; impacts on surrounding ag land; water; ground water; safety of Airport Road; and air pollution. She suggested the subdivision have both a central water and sewer system and that the owners be required to install drip irrigation systems on timers. Nadia Bieser, the applicant introduced Michael Nicklin, with Nicklin Earth and Water, MSU Professor William Gould, and Bob Abelin with Peccia and Associates giving a brief summary of their experience and qualifications. Mr. Nicklin spoke regarding issues of ground water quantity and addressed questions about the potential for interaction between the surface water in the East Gallatin River and the ground water system. They conducted a pumping test and did some surveying data to define how that potential interaction may exist. In conducting the pumping test, it indicated they have a highly transmissive aquifer, indicating that its water bearing capacities are very significant. They pumped the well at 349 gallons per minute with relatively little draw down, which is much higher than the developments typical utilization would be. He stated that the impacts on the water level would be inconsequential. He explained that the aquifer receives recharge from the entire watershed, pointing out that the river is above the aquifer. It was Mr. Nicklin's expert opinion that it would require a much greater draw down for this development to take water from the river. He stated that there was no potential of effluent entering the river because water cannot flow out of the aquifer up into the river. He stated there would not be any perceptible nutrients associated with this development. He pointed out a dominant source of nitrate contamination in this valley is agriculture associated with both fertilizers and animal waste. They would be taking nutrient loading off this property associated with agricultural use, so in reality there will be a nitrate reduction. Commissioner Vincent questioned if Mr. Nicklin would ultimately get to a point where there could be a problem should other developments continue along the river in this area. Mr. Nicklin replied that it would require an intensive study well beyond what is required of this development. Commissioner Murdock questioned if they would get the same amount of assurance, study and documentation if they approve individual wells versus a central water system. Mr. Nicklin responded if it were spread out the impacts on the water level would be less for the wells in terms of water level itself. The discharge will be the same whether central water or individual wells. Professor William Gould read the reports by both the engineers and the hydrologist and made an onsite inspection and concurred with their view that neither the water quality nor quantity in the East Gallatin River and the fisheries therein would be affected by this development. He reiterated that the river is higher in elevation than the ground water, which will keep the river from accepting any degradation products from this subdivision. He stated that the wastewater treatments are sophisticated and efficient and are not close to river. He added that the riparian zone acting, as a clarifier for the river has not been breached. Bob Abelin gave a brief overview of the traffic impact study performed on this development. The traffic data was collected at the intersections of Springhill Road and North 19th Avenue, Airport Road and Springhill Road, Airport Road and Frontage Road. Using guidelines from the MDOT and the current 2003 traffic volumes, it was determined that the northbound traffic at the intersection of Airport Road and the Frontage Road would experience slightly more delay because of the traffic from the proposed district. The only way to mitigate this existing problem would be to install a traffic signal at this location. After reviewing all the information they recommended that a left turn acceleration lane be considered for the east bound traffic at the intersection of Airport Road and the Frontage Road regardless of the construction of the development and also that the traffic volumes, levels of service, and crash data be monitored at the Frontage Road and Airport Road intersection to determine the need for a traffic signal. They performed a level of service analysis on the intersections around the development and the data showed that most of the intersections are currently functioning at "C" or better in both the AM and PM peak hours. The only exception is the northbound leg of Airport Road and Frontage Road intersection, which is currently functioning at a level of service "D". As traffic volumes continue to grow in this area through the year 2010, the level of service will remain the same at all of these intersections. They also reviewed the signalization warrants for the intersection of Airport Road and Frontage Road and the data indicated that the intersection will meet the peak hour signalization warrants in the year 2010, even without the proposed development. Safety factors such as no shoulders, unregulated left hand turns and additional gravel trucks were noted. Commissioner Vincent pointed out that it was not just the increased volume coming from this subdivision; it was the whole picture including the traffic and safety given all the factors. They determined that there would be 9.75 trips per day for a single family residential home, and the analysis showed at full build out the proposed development would produce 1510 trips per day. After reviewing existing traffic patterns in the area and taking into account such factors as public school districts and economic factors it was calculated that 30 percent of the traffic in this development would travel west towards Belgrade and 70 percent would travel towards Bozeman. The applicant's representative Attorney Susan Swimley questioned if it was still the Commission's intention to only take comment on supplemental information since public comment was closed at the last hearing. The Commission was in agreement to proceed with public comment on water quality and quantity and traffic. Commissioner Vincent noted a letter from Mary Beth Adams in opposition to the subdivision, stating 5 reasons. He stated that they would need to get a determination from the County Attorney to see what items in the letter were permissible given those conditions of the continuation. Public comment: John McKenna; Dave Wagner, on behalf of the Moret's, adjacent property owners; and Mark Haggerty, on behalf of the Greater Yellowstone Coalition. Randy

Chamberlain was signed up to speak however he deferred his comments because they did not relate to the issues at hand. Mr. Wagner gave the County Attorney another letter from Mary Beth Adams with changes to make a determination as to whether or not it was permissible. He also noted that his letter was hand delivered to the Commission's office yesterday. In fairness, Gallatin County Attorney Marty Lambert suggested giving both letters to the applicant for a determination. Mr. Wagner stated it was his understanding that the hearing was continued to allow time to acquire additional information from Fish, Wildlife & Parks and for the applicant to provide additional traffic information. In addition, the developer asked to provide more information on ground water and wildlife. In his estimation the hearing was much greater expanded than initially. During testimony the following concerns related to the development were expressed: fertilizer; accumulative effects; down stream concerns; and traffic. Mr. Wagner accused the developer of not being forthright with information. It was also suggested that the application was incomplete, noting violations of the Gallatin County Subdivision Regulations, which lacked submittal requirements. He pointed out that there has been no variance requested on any of the road issues with regard to reverse curves and paved road widths. With regard to the water issue, Mr. Haggerty commented on lawn fertilizers, noting that they have a greater potential to effect water quality than septic systems. He did not believe they have any definitive information that suggested that this particular subdivision is above or below the water table. He stated that they needed to trigger some additional level of analysis that could be provided by: As a condition of approval, require a central water system which would trigger review by the State; or require an Environmental Assessment that will do the cumulative impact reviews of all the individual wells. He stated the bigger concern was stream flow depletion. He concluded that the application for the Riverfront Park Subdivision did not provide any certainty that existing water rights will be protected or that water quality in the East Gallatin River will be retained. He added, at a minimum the applicant should be required to demonstrate the cumulative impacts the 140 new homes will have on the water quality and quantity in the East Gallatin River. Mr. Haggerty did not believe the Commission had adequate information to determine they can protect existing water rights. He concluded if it turns out that this subdivision does reduce water quantity in the East Gallatin and directly results in some existing water right holders not being able to access their water, the county might be incurring some liability. He spoke briefly on the traffic issue. Ms. Swimley stated that she had 2 unsigned letters from Tim and Mary Beth Adams and 1 letter from Mr. Wagner and while the subject matter is expanded beyond the topics, she stated it was nothing new therefore she allowed the letters to be submitted. Ms. Swimley commented regarding emotional tactics and personal attacks made by those who testified. She pointed out that Fish, Wildlife & Parks have been fully advised and responded with no changes. She stated that they presented a complete application and staff verified that it was complete. She requested that Mr. Nicklin and Mr. Abelin testify to the inaccurate information portrayed by the public. She explained the reason impact fees were adopted were to collect money to do improvements for expansion of facilities that are impacted by the development although they cannot require off-site exactions. She stated that the Commission was far beyond their legal authority to require this subdivision to improve the Airport Road and Frontage Road intersection. Mr. Nicklin clarified statements addressed by the public regarding water, lawn fertilizers, and nitrates. Mr. Abelin spoke regarding the issue of capacity on the other roads around the development. He reiterated where they would be putting traffic onto the Frontage Road. Ms. Beiser reiterated some of the comments of the professionals in an effort in clarify statements made by the Commission and the public. Ms. Beiser stated she would agree to a condition, which would require them to provide to DEQ and DNRC, comparison of the effects of individual wells versus a common well. She believed issues of public health, safety and welfare planning have been addressed; and impacts have been identified and mitigated. Mr. Lambert stated that Mr. Wagner made a good point although he could not say the process was prejudice, noting that it would have been a consideration and decision of Belgrade Planning as to whether or not the application was complete. He did not say the Commission could not consider the information however he advised them not to deny the subdivision on the premise that the process was poisoned procedurally. Commissioner Vincent commented on the close proximity of the primary and secondary accesses. Ms. Beiser replied that the roads are approximately 675 feet apart which is more than twice the distance that is required. She pointed out from an emergency standpoint that each one of the accesses have independent ways to get to the subdivision. Mr. Lambert advised the Commission to not use the Master Plan or the Growth Policy in making their decision because they did not have a Growth Policy in effect that they can use as a matter of judging. Commissioner Murdock stated that they adopted the Update of the Belgrade Growth Policy. Mr. Lambert questioned if it had been incorporated into the Subdivision Regulations. Mr. Karp commented that they have adopted updates to the Belgrade Area Plan, which was under the Master Plan statutes however it is not a full-grown policy yet. He believed Mr. Lambert was correct that it would not comply as a Growth Policy. Mr. Karp stated that the plan they have used has just been for guide purposes and if there were reason to deny this subdivision it would have to come from other criteria. In addition to the fact, Mr. Lambert stated that 76-1-601 and all of the lengthy criteria, have to be taken into account in order to adopt the Growth Policy and that was not taken into account in adopting the document for the Belgrade Area. He noted that 76-1-606 states very specifically when a Growth Policy has been approved the Subdivision Regulations adopted pursuant to Chapter 3 must be made in accordance with the Growth Policy. He advised getting the Subdivision Regulations changed. He added that the Commission should not give much effect to potential liability with

regard to wells going dry, as it would be questionable that it could be proven that Riverfront Park was the cause. He cautioned the Commission with regard to what they say about the condition and character of the outlying roads in the area, which are not specifically ingress or egress to this development. He also cautioned the Commission about their findings with regard to issues of water and traffic where they have heard from professionals and licensed experts with significant education and experience in these fields, because until such time there is experienced staff in these areas to give an objective determination on such issues as ground water level and degradation of aquifer there could be legal ramifications. Commissioner Murdock stated that he would not have voted to approve this subdivision with its configuration and with some of the concerns he would have with the location except they cannot ignore a process even if they cannot make a finding that it is in compliance or noncompliance and that the Belgrade Planning Board unanimously recommended approval saying that this is where they want to see growth. He wished those who lived in this area would get a citizen petition zoning petition forum, because that is the best protection to keep from this kind of density. He did not see anything that could not be mitigated in this subdivision. He was not questioning Mr. Nicklin's expert testimony however he suggested that they change the conditions of approval to not only require central sewer but to also require central water because he believed the water issues were crucial. Ms. Beiser welcomed the additional scrutiny DNRC could bring to the process, as well as a requirement that they request DNRC to make a ruling as to whether or not individual wells or a community well water system would be appropriate. Commissioner Murdock questioned if DNRC would say no, that they only review central water applications. He stated if they reviewed and rejected it then the applicant could come back and amend that condition of approval. Ms. Beiser agreed to the condition. Commissioner Vincent asked if the applicant would consider the elimination of lots or reduction in the size of lots to provide a buffer between on going agricultural operations and residential lots. Ms. Beiser stated that she would accept a condition that would propose a buffer of 100 feet on the boundaries of the subdivision which boarder existing agricultural operations. She added that the 100-foot boundary buffer zone would exclude any developed residential structures. The setbacks would have to be adjusted which would push the homes closer to the road. She added that there would be some sort of fence or trees planted along the boundary near the greenhouses. Noting some of the lots to the south had varying depths she stated that perhaps they could accommodate 75 feet. Ms. Beiser believed the concerns expressed were with dogs rather than the proximity to the boundaries and suggested that perhaps it would be more appropriate to add dog restraint language, rather than setbacks. She would accept a buffer of no more than 75 feet with the exception of the southern lots at 50 feet and suggested that dogs should be addressed in covenants. Commissioner Vincent questioned if the lot sizes would be practical with the buffer reduction. Ms. Beiser believed it would work. Discussion took place with what constitutes a buffer. Commissioner Vincent stated a wide-open back yard was just space, not a buffer adding that his idea of a buffer was different than that of the applicant. Commissioner Murdock commented that he was not inclined to vote without information regarding the condos. Ms. Beiser stated that all the information had been calculated and submitted on the basis of 24 units. She was agreeable to accept as a condition, that the number of units be limited to 24. Discussion took place with regard to the variance. Mr. Karp stated if the variance is granted then Spain Bridge Road would be required to be upgraded and paved prior to final plat approval of Phase 2. He clarified that they would delete condition #19 and that condition #23 would take precedence. **Commissioner Murdock moved to approve the variance, finding that granting the variance would not be detrimental to the public health, safety and welfare of the county. Seconded by Commissioner Mitchell. Commissioner Murdock stated that the traffic impacts are already low on this road therefore he did not think it would be great harm to wait until Phase 2. Commissioner Mitchell was not in support, stating if the subdivision is approved she believed there would be a lot of construction traffic and with all the infrastructure that will have to be developed that it will be necessary. Commissioner Murdock voting aye. Commissioners Mitchell and Vincent voting nay. Motion failed. Finding that the Riverfront Park Subdivision with the conditions as amended will comply with State Statute regarding subdivisions and is in the spirit and not the law of the people in the Belgrade area that have worked on the Master Plan and Growth Policy which is a work in progress, and finding that it comports with the Subdivision Regulations, Commissioner Murdock moved to approve the subdivision, subject to the conditions as follows: Conditions #1 and 2 as stated in the staff report; condition #3, to be amended: (add the following sentence to the end of the condition as written per Mr. Karp) "The DEQ submittal will be with a central water system design. If DEQ determines that individual wells are more appropriate for this subdivision, the Commission shall consider approving the subdivision with individual wells under this same application". Commissioner Murdock stated that was not the intent. He suggested that it be worded as follows: "The applicant shall apply to DEQ and/or DNRC for central sewer and water system". In addition, Commissioner Murdock noted conditions #4 through 18, as presented by staff. Mr. Karp noted that the word "existing" was inserted before the words "boundary fences" on condition #5(c). Discussion took place with regards to buffering. Commissioner Vincent commented that he did not believe it would be mitigate able. Commissioner Murdock continued with deleting condition #19; #20 through 22as written; add the words "prior to Phase 1" at the end of condition # 23; conditions #24, 25, 26 as written; add new condition as follows: "No more than 24 condominium units may be built on the tract reserved for condominiums. Mr.**

Lambert suggested adding the following to condition #3: **The applicant must apply to and obtain approval from appropriate agencies for centralized water and sewer systems".** Seconded by **Commissioner Mitchell**, adding that she was not going to support this subdivision although they encourage density; she believed that this subdivision with this density was not in the appropriate location. She could not find adequate mitigations for all the testimony heard. She commented that there was some very compelling testimony from Montana Perennial Farms about the impacts on their business, including cats that could ruin their compost, plus the power usage. She also believed this was an inadequate application because it was lacking information as well as other inconsistencies. She stated that the applicant testified at the last hearing that there would be adequate power usage, and the power company was going to put in larger lines. The letter from the power company stated that they were not adding any lines. Regardless of the experts and numbers, she did not believe there was any way to mitigate the traffic impacts, and the density impacts created by this development. She was uncomfortable with the very small parks that are nothing more than sand filled septic leach fields. She added that the biggest problem is that lot sizes and density are inconsistent with adjacent land uses and lot sizes. She believed they would create a conflict of urban and rural usage. Commissioner Vincent stated that he would not be voting to approve this subdivision although he believed at some point it will be an appropriate place for a subdivision although with less density. In his estimation this development was highly incompatible with existing adjacent land uses. He believed it would be appropriate for future infill however it was apparent to him that this was an area in transition and that the development of this type was not appropriate at this time. It was his opinion that the transition from agricultural usage in areas to residential should occur slowly. He found it was incompatible with the best interest of agriculture under State Statute 76-3-608. It was his estimation that traffic alone with adding the 143 lots plus 24 condo units will unduly impact existing roads. While directing most of his comments to the Frontage Road, Commissioner Vincent stated the safety of Spain Bridge Road and Airport Road is a serious problem. With the addition of 1,510 proposed vehicle trips on that segment of Highway 191 it is open to question, knowing there is going to be 150 to 175 additional trips from gravel trucks along with other population increases that will impact that road. Therefore, based on 76-3-608 under public health and safety, he determined that it was not in the best interest of public safety at this time. He clarified that he did not believe the traffic study given one additional factor, which was not entered into the record, does not give them a realistic assessment of traffic along the full stretch of the Frontage Road. The reasoning was because this subdivision lies in the Belgrade School District and the kids in this subdivision will be going to Belgrade and according to the study, 70 percent of the adults living in this subdivision will be going to Bozeman. He did not believe they could factor those movements into a traffic study, given the dynamics and he felt there would be enumerable trips that have not been calculated into the traffic study. He found fault with the traffic study for not addressing that reality. He believed that the secondary access was still inefficient although it exceeds county standards however he preferred to see emergency exits or secondary accesses not grouped together. The subdivision does not provide for the clustering of lots, or the preservation of open space, noting that there is little open space and the proposed park areas only exist to facilitate community drain fields. He applied 76-3-608 with regard to public health, safety and welfare in this case because he believed it is a question of public safety with those who would visit those parks playing on top of a drain field. He did not believe the park locations were carefully thought out. He did not believe the condition for water quality was adequate, noting a concern for water quality as well as impact on the East Gallatin River and agricultural water users and a threat to senior water rights. 76-3-608 with regard for public health and safety was also applied. He stated that buffering is non-existent although the applicant suggested moving the footprints forward. In his estimation it did not constitute the buffering needed between residential and agricultural land. To have a subdivision immediately adjacent to existing agricultural operations that traditionally use firearms to protect their livestock and rodent control seemed to be a conflict therefore, he referred to 76-3-608 with regard to the affect on agriculture by having homes that close. He stated that the property is almost surrounded by agricultural operations and there is agricultural equipment on the roads. He was not willing to accommodate the mix of urban traffic and farm equipment. He stated that this would also take viable agricultural land out of production. He invoked 76-3-608 in regard to public health, welfare and safety in regard to the flooding, in reference to the fact that 50 percent of all flooding in the United States occurs outside the 100 year floodplain. He believed this area was vulnerable to the kind of flood that would go beyond the boundaries of the traditional 100-year floodplain. He added the effect on local services in regard to the inability of Gallatin County at the present time in regard to lack of resources to provide enough law enforcement and the level of service to protect our residents. In conclusion, he addressed the impact on education, adding that a development of this size would increase the number of children attending Belgrade Schools. **Commissioner Murdock voting aye. Commissioners Mitchell and Vincent voting nay. Motion failed.**

There were no pending resolutions. There being no further business the meeting was adjourned at 2:52 P.M.

PUBLIC MEETING

TUESDAY THE 29TH DAY OF APRIL 2003

The meeting was called to order by Chairman John Vincent at 9:02 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

APRIL 21, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock, and Mitchell, Fiscal Officer Ed Blackman, Grants Administrator Larry Watson, and Assistant Christina Thompson. The Commissioners considered approval of a Signature for License agreement between 911 and Western Wireless. No motion was needed for said agreement.

Discussion took place regarding the creation of the Refuse District Creation. Commissioner Murdock moved to approve Public Notice for a public hearing regarding the Refuse District Creation. Commissioner Mitchell seconded said motion. All voted aye. Motion carried unanimously. Commissioner Mitchell moved to advertise for members and solicits the Refuse District Board. Commissioner Murdock seconded requesting that Mr. Blackman and Mr. Watson solicit for Board Members. All voted aye. Motion carried unanimously. Terms limits are presently undetermined. Mr. Watson will send letters to everyone under contract notifying that the new board will negotiate a new contract effective July 31st. RFP's will be out no later than May 23, 2003. Mr. Watson mentioned that the Compost Facility Dedication would be held on June 13th.

Citizen interaction with Gallatin Airport Authority was discussed and Commissioner Vincent will follow-up with the Board and report back at a later date.

Commissioner Mitchell requested to be on the Detention Center Consultant Selection Team. Commissioner Murdock approved and Commissioner Vincent requested more time for review.

Commissioner Vincent discussed Holcin and has requested that the Board of Health meet to discuss whether to solicit DEQ to do an EIS.

APRIL 22, 2003

- The Commission conducted regular County business.

APRIL 23, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, and Murdock, and assistant Christina Thompson. All items on the agenda were continued due to a scheduled public transit capital match discussion meeting. No minutes were recorded at this meeting.

APRIL 24-25, 2003

- The Commission conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated April 24, 2003, in the amount of \$541,695.05.
2. Approval of Applications for Cancellation of Taxes for Parcel Number(s): PPP10253, PPP10323, PPP14112, PPP14122, PPP14737, PPP16056, PPP851, PPP19819, PPP14256, PPP15665, PPP13487, PPP17746, PPP1894, PPP18459, PPP18460; totaling \$4,136.99.
3. Request for Common Boundary Relocation for John P. Zuelke and David G. Hargrove, described as Lot 4 of Minor Subdivision No. 237, located in a portion of the NE ¼ and SE ¼ of Section 20 owned by Hargrove: and a portion of the SW ¼ of Section 21 owned by Zuelke, all in T2N, R2E, PMM, Gallatin County, Montana. (54 Zuelke Sac Road, Three Forks, MT). Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Common Boundary Relocation for David G. Hargrove and Amber Hargrove, described as a tract of land being Tract C of COS 1868, and Tract A1 of COS 1868A, located in the NW ¼ and SW ¼ of Section 27 and in the SE ¼ of Section 28, T2N, R2E, PMM, Gallatin County, Montana. (101 Carpenter Road, Three Forks, MT). Gallatin County Planner Victoria C.

Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

5. Request for Mortgage Survey for Walter Daniel Mecklenburg, described as a portion of Tract 2 (8.110 acres) COS 1825, located in the NW ¼ of Section 14, T1S, R5E, PMM, Gallatin County, Montana. (4141 Springhill Road, Bozeman, MT). Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Approval of Contract(s): Paying Agent and Registrar-Open Space 2003; Duncan F. Kippen-Painting of Community Room Mural; and Bozeman Comfort Inn-Meeting Room Rental for 3 Days.

Commissioner Vincent made note of a change in the regular agenda with the addition of the Gallatin County RID Paving and Road Maintenance Program 2003 bid opening, as the new regular agenda Item #2. It was noted that the Planning Department staff also expressed a concern as to whether or not proper legal procedures were followed on regular agenda Item #8, the public hearing and consideration of a resolution of intent to create the Bridger Bench Interim Zoning District. To prevent the possibility of proceeding and then being challenged relative to the process, Commissioner Vincent stated that it would be continued indefinitely until the County Attorney assured them that this is properly before the Commission. Mr. Lambert requested a few minutes to research the law adding that he could possibly give an answer today and the Commission could still proceed. Commissioner Vincent pointed out that one step which, is verification of signatures by the Clerk and Recorder, when and if asked has not been accomplished. Gallatin County Clerk and Recorder Shelley Vance clarified that she had not received a petition for verification to create a zoning district. Mr. Lambert commented that they may be impacting a policy of Gallatin County and under those circumstances he suggested a continuance, withdrawing his request. Consideration and action was continued indefinitely. **No action taken.**

Commissioner Mitchell read the consent agenda. Gallatin County Attorney Marty Lambert stated that it was his understanding that the Kippin contract was going to be pulled. Gallatin County Finance Officer Ed Blackman confirmed that the Kippin contract was amended and Mr. Kippin was in agreement. **Commissioner Mitchell moved to approve the consent agenda, as read. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Murdock read the proclamation declaring "Loyalty Day", in the United States. Donna Daems, Chairperson of Loyalty Committee Day spoke of their efforts to make people aware of Loyalty Day. Ms. Daems urged everyone to join together on May 1, 2003, at 3:00 P.M. to stand wherever they may be and say the Pledge. **Commissioner Murdock moved to approve the Loyalty Day proclamation, as written. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Phil Forbes on behalf of Morrison-Maierle opened bids for the Gallatin County RID Paving and Road Maintenance Program 2003. The bids were for asphalt overlays in Mountain View Subdivisions No. 2, 3, 4, 5, 6, & 7 and asphalt fog seals for Hitching Post Road-RID 309 and Sourdough Creek Roads-RID 326. Three bids were received as follows:

	<u>Gallatin Asphalt, Inc.</u>	<u>Big Sky Asphalt, Inc.</u>	<u>JTL Group, Inc.-Belgrade</u>
Sub-Total Schedule I	\$ 50,067.00	\$ 38,867.00	\$ 41,410.00
Sub-Total Schedule II	\$181,880.50	\$138,931.00	\$ 153,248.70
Sub-Total Schedule III	\$ 4,235.00	\$ 1,709.40	\$ 2,310.00
Sub-Total Schedule IV	\$ 5,676.00	\$ 2,291.04	\$ 3,612.00
<hr/>			
Total-Schedules I-IV	\$241,858.50	\$181,798.44	\$200,580.70

All three bids were signed, acknowledged Addendum #1 and included a bid bond in the amount of 10% and a Power of Attorney. Mr. Forbes requested time to review and consider the bids before coming back with a recommendation. **No action taken.**

Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing and consideration to abandon a portion of Buffalo Horn Road. The petition was submitted to the Commission on March 25, 2003. Notice of the public hearing was published in the High Country Independent Press on April 24, 2003. An error was made when creating the notice, which referred to Big Horn Road instead of Buffalo Horn Road. Notice was mailed to landowners named in the petition; all signers of the petition; all individuals named in the petition who could be affected; the postmaster; the Public Lands Access Association; permittees conducting outfitting or guiding activities in the Buffalo Horn Drainage; and those with recreational cabin sites on the Buffalo Horn Drainage. The viewing committee report correctly reflected Buffalo Horn Road. In outlining the viewing committee report, Ms. Vance explained that the Trust for Public Land is working with the Forest Service and the 320 Ranch Inc. on Taylor Fork land acquisitions and related land use actions. One of the related land use actions is the relocation and construction of Buffalo Horn Road and the bridge. The 320 Ranch Inc. agreed to grant a permanent easement to the Forest Service that will allow the Forest Service to construct a new road and bridge to provide a perpetual, uncontested, public access to the Buffalo Horn area. The new road and bridge will be located partly on National Forest land and partly on private land owned by the 320 Ranch, Inc. The mutually agreed upon route starts on Forest Service lands on the east side of Highway 191 approximately $\frac{3}{4}$ miles north of the existing Buffalo Horn Road, crosses the Gallatin River, and then heads in a general southeast direction through the 320 Ranch land, and then back onto Forest Service land where it runs almost due east until it rejoins the existing Buffalo Horn Road. The Forest Service agreed to relinquish any and all of its asserted interests in that portion of Buffalo Horn Road east of Highway 191 and ending at the common border between Sections 26 and 27, Township 8 South, Range 4 East provided that (1) the new Buffalo Horn road easement is first granted to the Forest Service, and (2) the new Buffalo Horn road and bridge is fully constructed to Forest Service standards. The timing of this construction will depend on when the Forest Service secures the needed funding. On the advice of the County Attorney's, the county could follow through and condition this abandonment. The petitioners requested that Gallatin County abandon any legal interest that the county may claim to have in the Buffalo Horn Road as it currently exists on lands owned by the 320 Ranch Inc. The abandonment or vacation of county roads according to 7-14-2615 (3) MCA states "The board may not abandon a county road or right-of-way used to access public land unless another public road or right-of-way provides substantially the same access". According to the petition, the alternate public access that is being proposed is not only substantially the same, but it is substantially better than the access that currently exists. The new road and bridge easement will guarantee permanent, uncontested, and unrestricted public access along a dedicated route. It will also ensure that all ownership, jurisdiction, and management responsibilities for the new road and bridge will be vested with the Forest Service. The viewing committee believes that it is feasible and desirable to grant the petition after the following conditions are met. 1) 320 Ranch Inc. grants a permanent road easement to the Forest Service, such easement to be recorded in the Gallatin County Clerk and Recorder's Office. 2) A new road and bridge is constructed by the Forest Service and opened to general traffic. The conditions are recommended to insure that no one is denied access to public lands. If the Commission adopts the resolution, the resolution will be held in escrow until such time that it has been demonstrated that the conditions have been met. Once they have been met, Escrow will release the resolution to the Clerk and Recorder to be officially recorded showing the abandonment. Commissioner Mitchell questioned if the old bridge and access would revert to the 320 Ranch for their access. Alex Diechman on behalf of The Trust for Public Land recapped what has taken place with regard to the agreement with the 320 Ranch Inc. and other affiliated owners to purchase, the last remaining large block of private land to the Taylor Fork drainage south of Big Sky. The acquisition is a key step in a complex, decade-long effort to end the "checkerboard" pattern of private land holdings that once dominated the western side of the Gallatin National Forest. One of the land use actions that the Forest Service asked them to solve was a road dispute issue revolving around the Buffalo Horn Road that sits on the 320 Ranch Inc. lands. They came up with a solution that met both the Forest Service needs and the public's needs. Mr. Diechman explained that they are trying to close the 2nd phase of the purchase, which involves the consummation of all the various land use actions. One of the conditions of closing involves the delivery and granting of the perpetual road easement by the 320 Ranch Inc. to the US Forest Service. He stated that easement would be granted the same day they close this transaction. He confirmed that the bridge was private and will remain and continue to provide access to the 320 Ranch Inc. Public comment: Joe Gutkoski, representing the Gallatin Wildlife Association expressed concern that the Commission make sure and retain the public interest in the existing bridge and road just in case the bridge is not built for some time. Bob Morton spoke in opposition to the abandonment of the road. He stated that the location of the new road would be a very big safety hazard even if it were built to the Forest Service specs because of the aspect and slope. He also addressed concerns with snow plowing and maintenance of the road access in winter to leased Forest Service cabins and elimination of elk migration patterns and habitat. He saw no benefit to the public by abandoning the road and putting the cost into building a new road, when the existing road was fine. Gary Cook agreed with Mr. Morton's points and urged the Commission to view the proposed site. He pointed out that the Forest Service has never maintained the existing road. He spoke in favor of the land exchange, adding that he believed it benefits the public and the wildlife. He was opposed to the road abandonment. Bob Dennee, Forest Service Lands Manager stated that the Forest Service is in support of the

resolution as written. He emphasized that they went through an extensive public involvement process and he felt strongly that the conditions are very important. With regard to the location, he pointed out that they spent considerable time with their engineering staff and others in locating the road. It is designed to accommodate travel, including horse trailers. He encouraged anyone with a concern regarding the road design to meet with them and the engineering staff. He reiterated that the Forest Service will have all the responsibility to maintain the new road and they see it as a substantially better facility that what now exists. Further discussion took place with regards to the bridge. Mr. Dennee confirmed that the location of the new road has been considered since the early 70's, and the grade will not exceed 8 percent, which is well within the Forest Service standards for primary access roads. It will be built to a 14-foot gravel surface with ditches, culverts, and turnouts. They requested funding for the road and bridge and were fairly confident they will receive the funding within the next 3 years. He agreed that they should not abandon any interest in the existing road until the new road and bridge are constructed to standards and available for public travel. It was pointed out that the Forest Service conducted an Environmental Assessment, prepared in 2002, along with the decision notices. There was considerable public comment and it was open to public review and appeal. No objections were received at that time. Deputy County Attorney Kate Dinwiddie believed that they adequately addressed the safeguard issues and that the public would not lose any access. She quoted 7-14-2615 (3) MCA, adding in this case she believed it was going to be substantially better. She felt the Environmental Assessment that was conducted and public comment submitted to the Forest Service at that time allowed the public to comment on how the new road would affect them. In response to Commissioner Vincent's question regarding alternative road locations, Mr. Dennee stated that several locations were considered and evaluated and this worked best for both sides. Commissioner Vincent commented that one of his least favorite things were side hill road cuts, because of permanent scaring. Noting that this hillside is clearly visible, he questioned if special efforts were going to be made to do the kind of work that needs to be done for stabilization and aesthetic purposes. Mr. Dennee confirmed that their landscape architects have assisted their engineers, noting that portions of the road will be seen however for the most part it is screened behind the trees. They will also seed the slopes making the least visual impact possible. Joan Cook noted they have year around access to their cabin with the existing road and questioned if the new road would be year around access as well. She added that she has never seen the existing road maintained. Mr. Dennee stated that they have not and would not plow snow, unless Fish, Wildlife & Parks did so as part of a late elk hunt. Commissioner Murdock was in favor on balance because of what he considered the greater public interest with the land swap. He shared concerns expressed during testimony however he stated that it was bigger than just access to their property and the public going up the road. He would not be in favor of the abandonment, if it were not for the land swap. He believed the land going into public ownership far outweighed the inconvenience of the new road. Although he did not like the road cut either, it was still public access. He believed they were safeguarded with the wording of the resolution. **Commissioner Murdock moved to approve Resolution #2003-042, as written. Seconded by Commissioner Vincent.** Commissioner Mitchell was not in support of the abandonment although she agreed with the land exchange. She understood the need for a change in the access because of the way it goes through the 320 Ranch. She did not have the confidence that public input actually was infused and accommodated in the EIS for the new road location. She was personally disturbed by the new road, adding that the existing road was a short direct route with year around access even though the Forest Service does not plow it. The new road will still not be plowed by the Forest Service and they are not guaranteed year around access. She believed by moving the road it will require more maintenance. She was not in favor of the side cut in the hill and the visual scar in the landscape. She did not have a lot of faith in follow up with past experience with the Forest Service. She did not believe this was the best solution. Commissioner Vincent stated that he was going to vote in support of the resolution with all things considered, adding that this has a lot of variables and factors. He was convinced the greater public good and the greater public benefit would be served by approving the road abandonment. If it were not for land exchange and the connectivity that this action has with that land exchange he would vote against the road abandonment. He was very concerned about the road cut and seconded Commissioner Mitchell's concerns because he did not believe the Forest Service has a stellar record when it comes to protecting the natural landscape and construction of roads that prove to be maintenance demanding. **Commissioners Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried.**

Gallatin County Clerk and Recorder Shelley Vance reported on a resolution and Order Declaring Organization of territory of the Four Corners County Water and Sewer District. The election to create the Four Corners County Water and Sewer District was conducted April 15, 2003, and it was voted in 11 to 0, to create the District. Ms. Vance explained the process and procedure according to Statute. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-043. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County GIS Coordinator Allen Armstrong reported on the continuation of a public hearing and consideration of a resolution for a road name change in Gallatin County. (Lane Drive to Stubbs Lane, Rlane Drive, Durango Lane, and Whisper Lane). Public comment: Don Hurlbert questioned when the change would take effect. Mr. Armstrong stated June 2, 2003. **Commissioner Mitchell moved to approve Resolution #2003-044. Seconded by Commissioner Vincent. Commissioners Vincent and Mitchell voting aye. Commissioner Murdock voting nay. Motion carried.**

Weed Department Supervisor Dennis Hengel reported on a resolution of intent to amend the Weed District FY 2003 budget to include unanticipated Special 2003 County Weed District/Reservation Grant and Valley Center 4-H Education Grant revenues in the amount of \$9,393. There was no public comment. **Commissioner Mitchell moved to approve Resolution of Intent #2003-045. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on consideration of a resolution for a variance for Doverspike in the Hebgen Lake Planning and Zoning District. On April 17, 2003, the Hebgen Lake Planning and Zoning District held a joint public hearing with the County Commission. On March 30, 2003, the Hebgen Lake Zoning Advisory Committee voted unanimously 4-0 to recommend approval of the variance. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-046. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 10:20 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING **TUESDAY THE 6TH DAY OF MAY 2003**

The meeting was called to order by Chairman John Vincent at 9:00 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

APRIL 28, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell, Dorothy Bradley, Bob Isdahl, and Commission assistants, Glenda Howze and Christina Thompson.

Commissioner Murdock moved to approve a budget transfer request for the Open Lands Board. Commissioner Vincent seconded. All voted aye. Motion carried two to zero.

Bob Isdahl discussed cleaning services Bid for FY2004. Both Commissioners Vincent and Murdock authorized Mr. Isdahl to put out for bids and proceed to talk to the rest home, fairgrounds, and road department and see if they would like cleaning services.

Dorothy Bradley discussed the concept of a Public Defenders Office, and that they are waiting on recommendations from the CJCC to conclude the language of the contract.

APRIL 29, 2003

- The Commission conducted regular County business.

APRIL 30, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, CIP Committee Members: Leon Royer, George Stanislaw, James Monger, and Lorraine VanAusdol and Commission assistants Glenda Howze and Christina

Thompson. The CIP Committee presented recommendations on adding more office space for the county that include Oak Street, Law and Justice center and/or buying adjacent property near the courthouse. The CIP Committee expressed frustration in recommending capital improvements to the commission and seeing no follow through. The CIP suggested hiring a County Manager to oversee the county.

Commissioner Murdock moved to approve a contract for acceptance of \$220,000 in funding for additional equipment purchases at the West Yellowstone Transfer Station and Composting Facility. Commissioner Vincent seconded. All voted aye. Motion approved two to zero.

Commissioner Murdock moved to approve a contract to modify CTEP Contract for STPE 169(37) building rehab-Manhattan to reflect final budget adjustments. Commissioner Vincent seconded. All voted aye. Motion approved two to zero.

The commission discussed moving forward on an RFP submitted by Western Transportation Institute. Commissioner Murdock directed Larry Watson to prepare an RFP so that the county is ready to expedite a vendor if the commission votes to approve.

MAY 1-2, 2003

- The Commission conducted regular County business.

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated May 1, 2003, in the amount of \$498,876.20.
2. Approval of Application for Cancellation of Taxes for Parcel Number(s): PPP1631, PPP14724, PPP14938, MMM553, MMM1289; totaling \$1,251.70.
3. Approval of Contract(s): NBS Tax Billing Contract-Treasurer; and Gravel Lease-Gallatin County-Mastandrea-Road Department.

Commissioner Murdock read the consent agenda. There was no public comment. **Commissioner Mitchell moved to approve the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Board appointments for the Valley Grove Phase IV Water and Sewer District Board of Directors. The creation of the Valley Grove Phase IV Water and Sewer District was approved within the district on October 27, 1998, the territory confirmed by the Board of County Commissioners in Resolution #1998-86, and the Certificate of Incorporation issued on January 11, 1999. Pursuant to 7-13-2262 (3), "If there are no directors remaining on the board and no nominees for any director position to be elected, the County Commission may appoint the number of directors specified in 7-13-2232 (1)[...the board of directors shall consist of five members or three members if there are 10 or less qualified electors in the district.]" As there are more than 10 qualified electors within the district, the County Commissioners should appoint five members as directors for the Valley Grove Phase IV Water and Sewer District. The following individuals applied to serve in these positions: Joe Sayer; Clem Lambrecht; Carl Lehrkind; Kevin Cook; and Joe Cashman. They all qualify to serve as directors based on property ownership within the District. If all are appointed, it has been recommended that Mr. Sayer, Mr. Lambrecht, and Mr. Cashman serve two-year terms and, Mr. Lehrkind and Mr. Cook serve four-year terms. The newly formed Board will serve until November 2005. As that time the three two-year term seats will become vacant and up for election. Mr. Cook and Mr. Lehrkind will retain their seats until November 2007. Elections will be held every odd year in November. Ownership record: Sayer-Lot 232, Phase IV, Lambrecht-Lot 302, Phase IV, Lehrkind-Lot 325, Phase IV, Cook-Lot 326, Phase IV, and Cashman-Lot 319, Phase IV. There was no public comment. **Commissioner Mitchell nominated Joe Sayer (two-year term), Clem Lambrecht (two-year term), Carl Lehrkind (four-year term), Kevin Cook (four-year term) and Joe Cashman (two-year term). Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Steve Malmberg, on behalf of Morrison-Maierle, Inc. reported on the recommendation of award for the 2003 RID Road Maintenance Project. Three sealed bids were received and opened on April 29, 2003. The apparent low bidder was Big Sky Asphalt. There were two minor inconsistencies in the bid package and after conferring with Deputy County Attorney Kate Dinwiddie it was determined that the inconsistencies were non-substantive. Morrison-Maierle recommended awarding the contract to Big Sky Asphalt, in the amount of \$202,158.04, which will include Schedules I – IV, Schedule I Additive Alternate and Schedule II Additive Alternate. Further discussion took place with regard to the difference in the estimate and the bid

amount. Mr. Malmberg explained that it was a matter of the oil costs. **Commissioner Murdock moved to accept the recommendation from Morrison-Maierle and award the bid to Big Sky Asphalt in the amount of \$202,158.04. Seconded by Commissioner Mitchell, adding that it was to include all the work as recommended by Mr. Malmberg of Morrison-Maierle. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the public hearing and consideration of a request for a family transfer for Michael Sidders, located in the SW ¼ of Section 10, T1S, R5E, PMM, Gallatin County, Montana. (2792 Nelson Road). Mr. Karp summarized the proposed exemption request. Based on the information received, Mr. Karp stated that it appeared to be a legitimate use of the subdivision exemption procedure for family transfers under the Montana Subdivision and Platting Act. However, after speaking with Gallatin County Planner Sean O'Callaghan it was noted that the Gallatin County Planning Department received a couple of phone calls indicating that one of these parcels was up for sale. It was looked into and nothing was found. Michael Sidders was sworn in by Gallatin County Attorney Marty Lambert and testified under oath answering questions to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. Mr. Sidders acknowledged that he is a licensed real-estate appraiser/broker and his father is a licensed real-estate appraiser. When asked if he had any knowledge regarding the claim that it was his intent to sell one of the parcels, Mr. Sidders stated that it was not true. There was no public comment. Without hearing anything during testimony that would lead him to believe the facts in this case are any different as presented, Commissioner Murdock stated that he could find no reason to deny the family transfer request. **Finding that it was a proper use based on the answers to the questions under oath, Commissioner Murdock moved to approve the request. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Belgrade City-County Planner Jason Karp reported on the consideration of a request for final plat approval for the Jason Lea Minor Subdivision. The Commission voted at their June 27, 2000 public meeting to grant preliminary plat approval. Mr. Karp stated that the applicant demonstrated compliance with each of the conditions therefore; it was his recommendation that the Jason Lea Minor Subdivision be granted final plat approval. Ron Allen, the applicant's surveyor stated that this subdivision was a tract of land that was originally acquired by the airport. He confirmed that it has been developed in accordance with the requirements placed on the property limiting commercial use because of sound levels. There was no public comment. **Confident that the terms of the conditions of the subdivision have been met, Commissioner Murdock moved to grant final plat approval, based on the information submitted. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing and consideration of the first reading of an ordinance reducing the speed limit on Sourdough Road. Mr. Provance summarized the ordinance. He explained that MCA 61-8-303, states a speed in excess of 25 MPH in an urban district is unlawful, noting that this section of road would be considered an urban district. Therefore, he recommended setting the speed limit with three separate speed zones as follows: 25 MPH from Kagy Boulevard to Sourdough Ridge, 35 MPH from Sourdough Ridge to 200 feet south of Goldenstein Road, and 45 MPH 200 feet south of Goldenstein Road to Nash Road. Commissioner Murdock commented that this is one step to solving the problem however he believed a pedestrian and/or bike trail was needed. Further discussion took place with regards to whether this would be eligible for CTEP funds and signage. A speed study was conducted from Goldenstein Road to Nash Road and determined that 45 MPH was reasonable and prudent. Public comment: Martin Whitmont and John Lawson both spoke of their concerns regarding excessive speed and suggested increased enforcement. The Commission agreed to contact the Sheriff as a reminder that enforcement is needed in that area when the speed limit takes effect. **Commissioner Mitchell moved to approve the first reading of Ordinance #2003-007. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing and consideration of the first reading of an ordinance reducing the speed limit in Horse Butte Acres Subdivision. No speed study was conducted. There was no public comment. **Commissioner Mitchell moved to approve the first reading of Ordinance #2003-008. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Road and Bridge Superintendent Lee Provance reported on the public hearing and consideration of the first reading of an ordinance reducing the speed limit in Wylie Creek Estates Subdivision. There was no public comment. **Commissioner Murdock moved to approve Ordinance #2003-009. Seconded by Commissioner Mitchell, adding that this is the first reading. None voting nay. Motion carried.**

Gallatin County Attorney Marty Lambert reported on the consideration of a resolution to expend Road Impact Fees for improvements of Amsterdam Road. Amsterdam RID Attorney Susan Swimley explained her approach in order to proceed with improvements on Amsterdam Road. In October 2001, the Commission made a commitment if there was to be an RID to improve portions of Amsterdam Road they would consider using County Road Impact Fees. The proposed improvements to Amsterdam Road will be a 28-foot wide asphalt pavement mat from the I-90 eastbound off-ramp to the West Gallatin Bridge and a 1-foot wide gravel shoulder on each side, for a total of a 30-foot road and shoulder surface; westbound right hand turn lanes at Thorpe Road, Greenbelt Drive, River Rock Road, Westshore Drive, Royal Road, and Buckskin Road; 4-way lights at Thorpe and Amsterdam intersection and the River Rock Road and Amsterdam intersection; conduit would be laid for a future traffic signal at Royal and Amsterdam; additional turn lane on both the north and south sides of the Thorpe and Amsterdam intersection, culvert rehabilitation, pavement striping and marking; highway markers; traffic signs; and seeding and reclamation of disturbed right-of-way. The total of this work project as proposed is about \$1,660,000. The Commission is being asked to commit \$800,000 from the County Road Impact Fees. In addition to the \$800,000 (County Road Impact Fees collected in this area), \$660,000 would be prepayment of impact fees on the additional phases of the Potter Clinton Development in this area. They will also contribute gravel and other necessary materials in order to reach that amount. This would leave a \$200,000 shortfall, plus fees, which will be proposed, as a Rural Improvement District. The RID would only be imposed on River Rock Traditions Phases I thru IV, River Rock North Phase II, Tract B of River Rock Phase IV and Lot A of Block 2 of River Rock Subdivision Phase I. The RID would not be imposed on any current residents in River Rock with the exception of the school. Ms. Swimley explained that it was more advisable for the Commission to consider applying collected impact fees to roads that are more rationally related to the subdivisions that paid them. She outlined Exhibit "A" and "B" of the resolution showing the included radius and a list of subdivisions that have paid road impact fees in the area. Those subdivisions inside the red circle on the impact fee map paid \$756,450.43, and directly access the portion of Amsterdam Road that is proposed to be improved. She noted that there would be an additional \$45,000 of impact fees to be expended if the Commission chose to go north of the interstate within this area however she had trouble justifying the expenditure of impact fees collected to the north because for the most part those individuals do not access Amsterdam Road regularly. They were not included on Exhibit "B". She did include the smaller subdivisions to the south of the interstate totaling \$30,324.00, which would bring the total to \$786,774.43 collected from the subdivisions that are within red circle and south of the interstate. This would leave \$13,225.57. In discussion with Gallatin County Finance Officer Ed Blackman it was determined that they could come up with the \$13,225.57 out of the interest collected on the fees. Mr. Blackman explained that the interest accrued in the last 4 years for the entire impact fee fund has been in excess of \$80,000. In that time there has been \$1,060,000 collected in impact fees, of which 75 to 80 percent came from those subdivisions identified. The interest collected from the fees in this area was approximately \$60,000. Gallatin County Road and Bridge Superintendent Lee Provance voiced his support of the use of impact fees for this project. He suggested they get approval from the state on the project before the documents go to bid. He agreed that the subdivisions inside the ameba (red circle) on Exhibit "A" are contributing to the traffic in that area of Amsterdam Road. Further discussion took place with regards to a future maintenance agreement with the State Highway Department. Public comment: Sonya Berg spoke in favor of the improvements, the RID and the funding aspects. Mr. Lambert gave a brief overview of the resolution and summarized a prior meeting regarding this issue. Commissioner Murdock was in agreement with the project as presented at the meeting however he questioned if they would be committed to spend this money as described in Exhibit "C", if there was a change in plans. Mr. Lambert confirmed that they would not be committed and they could properly notice and rescind the resolution and the money could be considered for expenditure elsewhere. Commissioner Mitchell was in agreement with using the impact fees within the ameba (red circle) and that they utilize the interest they have accumulated up to the \$800,000 and retain the rest of the impact fees in the second part of Exhibit "B", for future improvements that would more directly benefit those subdivisions south of the ameba area. Further discussion took place with regards to whether or not they would have to revise the resolution. It appeared to Commissioner Mitchell that all of Exhibit "B" was inclusive in the resolution. Commissioner Murdock concurred that it needed to be clarified. Ms. Swimley stated that they could make a motion to expend the impact fees within the red circle and the associated interest to come to an accumulative \$800,000 and direct the County Attorney to prepare a new resolution. The resolution could then be adopted at an office meeting with a 48-hour notice or it could be put on next week's agenda. She added that it was necessary for the commitment of the \$800,000 to be done in order for them to do the RID resolutions. Commissioner Murdock questioned if they could just leave the resolution as is, even though if

references Exhibit "B", and if they chose not to expend all the money it would not commit them. Mr. Lambert confirmed that it does commit them. Ms. Swimley recommended that they not adopt the resolution if they did not want to follow it however they could pass a motion to support a revised resolution. **Commissioner Mitchell moved to support a revised resolution utilizing the impact fees from the irregular red line circle and interest up to \$800,000, to do improvements on Amsterdam Road as described in draft resolution #2003-047 that needs to be revised. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Planner Victoria Drummond reported on the consideration of a resolution to adopt an exemption fee schedule. The County Planning Department supported HB 298, - County fees for processing subdivision exemptions. Montana Legislature passed HB 298, which indicates a fee limit recommended by the Planning Department of \$200, for an examination of a division of land to determine whether it is exempt from subdivision review. There was no public comment. **Commissioner Mitchell moved to approve Resolution #2003-048. Seconded by Commissioner Murdock.** Ms. Drummond stated that the Planning Department would send a letter to all the surveyors indicating the new fees. **None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of preliminary plat approval on behalf of Joe and Veronica Skinner for the amended plat of the Cowan/Skinner Minor Subdivision (Minor Subdivision #209). The original subdivision, approved June 17, 1997, created a two-acre tract around an existing residence. No new tracts are proposed with this amended plat. The subject property is located in the SW ¼ of Section 11, T1N, R4E, PMM, Gallatin County, Montana and is generally located on the east side of Swamp Road between Burnt Road and Dry Creek Road at 4400 Swamp Road. The applicant is requesting a variance from the Fire Protection Requirements of Section 6.E.5 of the Gallatin County Subdivision Regulation. The request is to change the language filed on the original plat that pertains to the fire protection requirements. Section 6.E.5 of the Subdivision Regulations describes fire protection requirements for minor subdivisions. The applicant is requesting to remove the following covenant that was required as part of the original subdivision: "All new dwellings or home business occupancies built prior to the provision of an adequate water supply for fire fighting purposes shall be constructed with an automatic fire-sprinkler system meeting the requirements of NFPA 13D/Uniform Fire Code. The Fire District shall receive a stamped set of engineered sprinkler system plans for review and approval prior to construction. Inspections shall be scheduled during construction and after completion". Exhibit "A", attached to the staff report is the applicant's explanation stating the hardship and further documentation of the costs to comply with the covenant. Notice of this public hearing was published in the High Country Independent Press on April 3 & 10, 2003. The Planning Department received no public comment as of April 22, 2003. On April 22, 2003, the Gallatin County Planning Board considered the proposed amended plat; discussing the fire protection requirements during Board discussion. The Planning Board expressed concern over requiring fire sprinklers in residential structures, especially manufactured homes. After considering all information presented in the staff report, the applicant's presentation, and all public testimony, the Planning Board recommended approval of the proposed amended plat (7:0, 1 abstention). Attached to the staff report is Exhibit "B", from the Belgrade Rural Fire District stating they are not in support of removing the Fire Protection Water Supply requirement. The Gallatin County Commission has two determinations to make with this application: A determination whether to approve the requested variance. Section 13.A of the Subdivision Regulations authorizes the Commission to grant "reasonable variances...where it is found that strict compliance is not essential to the public health, safety and general welfare;" and a determination whether to approve the proposed plat. The basis for the Commission's decision shall be whether the preliminary plat of the amended plat of the Cowan/Skinner Minor Subdivision, and additional information demonstrate that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act, and the Gallatin County Subdivision Regulations. If the Commission approves the subdivision, the following conditions for final plat approval are suggested: 1. The final plat shall conform to the Uniform Standards for Final Subdivision Plats and shall be accompanied by the required certificates. **2. Applicant shall record on the final plat a waiver of right to protest creation of rural improvement districts, local improvement districts, fire district or fire service area and/or the creation of a sewer and/or water district.** 3. All utility easements shall be shown on the final plat. Utility easements shall be **20 feet wide**, and located along the property lines. In addition, the following statement shall appear on the final plat: *The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area*

designated on this plat as "Utility Easement" to have and to hold forever. 4. Applicant shall record the following covenants with the final plat: a) *We the undersigned property owners, do hereby inter a Covenant, to run with the land, certifying that the noxious weeds will be controlled by the property owners, according to the County Weed Supervisor's recommendation. That all areas disturbed during construction shall be reseeded with vegetation types approved by the County Weed Control Officer.* b) *Property owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.* c) *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.* d) **Any new individual lot accesses from County public roads shall require an encroachment permit from the County Road Department. Such encroachments shall be built to the lot access standards of the Subdivision Regulations (Section 7.G.2).** e) *Before any maintenance or improvements are performed on any watercourse, drainage way, channel, ditch or canal, the owner of the waterway must give written permission for the work to be done.* f) *Any covenant which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.* 5. Applicant shall have three (3) years to complete the above conditions and apply for final plat approval. The majority of the conditions are already on the existing plat, and the new language is bolded. Commissioner Mitchell questioned if there was access to water for fighting a fire. Mr. O'Callaghan stated that there was water the fire department could use. The applicant Joe Skinner reaffirmed his reasoning for the request, noting that it was not common sense to require that amount of fire protection for one lot. Further discussion took place with regards to amending the fire regulations especially fire sprinkler systems. Mr. Skinner assured the Commission that water to fight a fire could be obtained from a nearby river or stream. He stated if they had a fire and did not have a fire fill, he would expect the fire department to respond however he would not blame them for not being able to put the fire out. Bryan Connelley, on behalf of Belgrade Rural Fire commented on the many homes that are ignoring this requirement, noting that their current regulations do not differentiate between a single lot up to a 5 lot. He added that this is a public health and safety concern and another concern was that there have been well over 100 lots in his district that this requirement is on and if a variance is granted how could they expect anyone to comply. He stated that it was a safety concern without a water supply, noting that there is no access or connection to the water that is fairly close to this site. He commented that the primary factories of local modular home dealers do not offer the option of sprinklers however there are factories that do offer them. He stated that residential sprinkler systems in his district have been installed for \$2.50 per square foot. Further discussion took place as to the viability of Story Creek as a draft site. Commissioner Mitchell understood the concern of not having a fill-site, noting that the purpose of the fire department is to save lives, not necessarily to save structures. In that case she stated that Mr. Skinner was on the right track in that he is going to be living in a safer structure. She noted that Mr. Skinner included a letter from the insurance company stating that there was no discount in his rate, given additional sprinklers or fill-sites. She questioned if it would be possible for the fire district to have a neighborhood meeting and address the problem and ask for a cooperative solution for a fire fill-site, location, and access that would assist the fire department. Mr. Connelley stated that it was possible. She believed it would be a better solution rather than making an example of one person who came forth in the public requesting a variance versus those who are not complying. Mr. Connelley stated that most of those were not in this geographic area. He added that there are insurance companies that do offer up to a 20% reduction for sprinklers and water supply. Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson stated that when they review an application they do not know if there will be restrictions on sprinkler systems. He questioned if the Commission was going to be setting a new policy that water is not required for a one-lot subdivision. Although he understood the concerns regarding public health and safety, Mr. Skinner questioned what was reasonable to protect his home with regard to cost. When looking at a variance Commissioner Murdock said they look at the facts and in this particular case he referred to the Daniels & Associates letter, which gave two options with estimates on a water fill-site or tank that were \$14,800 and \$13,000. There were two quotes from sprinkler companies, which were \$8,200 and \$6,500. Given the facts in this case, he would find that strict compliance with the fire regulations is not essential to the general public health and safety of the county. He did not believe the one-lot fire requirements were reasonable and that it was time that the Planning Board revised them. **Commissioner Murdock moved to grant the variance request. Seconded by Commissioner Mitchell, requesting that Commissioner Murdock's comments be a part of the findings as meeting the two determinations on the variance request. She added the finding that according to the staff report there are no specific hazards in the nearby area that would cause greater concern than normal for fire.** Commissioner Vincent was opposed to the motion. He disagreed; adding that he would be happy to revisit the policy, as he did not believe this case was unique. He believed this case could be repeated 100's of times around Gallatin County and that it would set a precedent putting the Commission on the spot for anyone learning of this

situation and decision. He stated that it would be hard to differentiate with other cases. **Commissioners Mitchell and Murdock voting aye. Commissioner Vincent voting nay. Motion carried.**

Gallatin County Planner Karin Caroline reported on the public hearing and consideration of a request for preliminary plat approval on behalf of C & H Engineering for John E. and Sofia C. Kimm for the Kimm 1-Lot Minor Subdivision to remove an agricultural covenant. The property is located in the N ½ of Section 27, T1S, R3E, PMM, Gallatin County, Montana; and described as Tract 1A of COS 2059A and is generally located at the southeast corner of the intersection of Camp Creek Road and Prairie Road. The property consists of approximately 29 acres. The tract of land was originally created by an agricultural exemption in 2001, resulting in an agricultural covenant being placed on the existing tract of land. A property owner to the north (Mr. Baker) expressed concern with the location of the access, noting a preference of Camp Creek Road. Ms. Caroline briefly summarized the staff findings. The Commission has one determination to make with this application: a determination whether or not to approve, conditionally approve, or deny the proposed subdivision. The basis for the Commission's decision shall be whether the preliminary plat and additional information, demonstrate that development of the subdivision meets the requirements of Section 76-3-608 MCA of the Montana Subdivision and Platting Act and provisions of the Gallatin County Subdivision Regulations. If the County Commission approves the subdivision, the following conditions are suggested: Standard Subdivision Conditions: 1. All areas of the public right-of-way disturbed during construction shall be sodded or reseeded with vegetation types approved by the Weed Control Supervisor. 2. Prior to application for Final Plat approval, the applicant shall enter into a Memorandum of Understanding (MOU) with the Weed District. The MOU shall be signed between the Weed District and the applicant prior to Final Plat approval. The applicant shall submit the signed MOU at the time of application for Final Plat approval. 3. Encroachment permit(s) shall be obtained from the County GIS or Road and Bridge Department for any access points coming off of County maintained roads. Each access shall be at least seventy-five (75) feet from the nearest intersecting County road. 4. A Waiver of Right to Protest the Creation of Future RIDs will be required. 5. Thirty (30) feet of Camp Creek Road East of centerline and thirty (30) feet of Prairie Road South of centerline will need to be dedicated to the public for the entire length of the development. 6. A "no access" strip is required along all lot boundaries that border county maintained roads, with the exception of the approved access for driveway or subdivision road. Staff would suggest an access from Camp Creek Road as Prairie Road is less safe and in a lower area that gets frequently inundated with surface water (i.e. washed-out roadways). 7. All utility easements are to be shown on the Final Plat. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the Final Plat: "*The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as 'Utility Easement' to have and to hold forever*". 8. The subdivider shall make payment of road impact fees in accordance with the Gallatin County Road Impact Fee Regulation. 9. The following shall be noted on the Final Plat: a. All structures shall be constructed in compliance with Montana adopted codes for construction (International Building Code), including codes for Seismic Zone 4, and the National Fire Protection Association Codes. b. The landowner shall be responsible for the control of state and county declared noxious weeds on his or her lot as set forth and specified under the Montana Noxious Weed Control Act (7-22-2101 through 7-22-2153 MCA) and the rules and regulations of the Gallatin County Weed Control District. c. Any future structure(s) (residential or agricultural) shall be set back 35 feet from the high water mark of the existing watercourse, which travels through the property. 10. A copy of the preliminary plat approval document and the certificate of licensed title abstractor shall be submitted to the Gallatin County Attorney's Office at least thirty (30) days prior to scheduling a hearing for Final Plat approval. The Attorney's Office shall review and approve the certificate of title abstractor prior to Final Plat approval. 11. The Final Plat shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates (Section 5.E). 12. The applicant shall have three (3) years to complete the above conditions and apply for Final Plat approval. 13. The applicant shall obtain approval of lot size for individual water supply system and septic tank and disposal field from MDEQ and the Health Department. The applicant shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The applicant shall obtain the Gallatin County Health Officer's approval. 14. Per Section 6.E (Fire Protection Requirements) of the Gallatin County Subdivision Regulations, the applicant shall provide an adequate water supply for fire protection. The applicant shall have the fire district review and approve the water supply prior to Final Plat approval. The applicant

shall obtain written verification from the fire district that the required water supply has been provided. Applicant must comply with the requirements of the Amsterdam Rural Fire District and the subdivision regulations. 15. The subdivider shall make payment of fire protection impact fees in accordance with the Gallatin County Fire Protection Impact Fee Regulation. Gallatin County Sheriff's Department Suggested Condition: 16. The applicant shall pay a mitigation fee to the Gallatin County Sheriff's Department for the proposed subdivision's impact on law enforcement. The formula used shall be the following (see attachment): RESIDENTIAL CALCULATIONS: _____ # of units x 2.5 persons per residential unit = _____ persons (times) \$89.82 (\$89,815/1,000) - _____ residential mitigation for subdivision. Based on the above formula, the mitigation fee for the proposed Kimm 1-lot minor subdivision over a five-year period would be \$969.38. Condition 9(a) was changed to read: "All structures shall be constructed in compliance with Montana adopted codes for construction (International Building Code), including codes for Seismic Design Category D, and the National Fire Protection Association Codes". Commissioner Murdock questioned if that was a new covenant and if they were requiring a building permit. Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson replied that it was a standard covenant required of all subdivisions. The applicant's representative Mark Chandler of C & H Engineering provided a background overview of the proposal. Since the tract is over 20 acres in size, Mr. Chandler stated that condition #13 requiring DEQ review, could be deleted. He added that the applicant's would probably choose the sprinkler option in condition #14. The applicant did not feel it was appropriate to pay the fees suggested in condition #16, until the County adopts a uniform policy that applies to all subdivisions. Public comment: Doug Graves did not have any objections with the proposed plan. Commissioner Murdock believed that this one-lot minor subdivision comports with the Growth Policy and the County Subdivision Regulations however he did not care for covenant 9(a), which he noted was not included in today's prior staff reports. He respectively asked that staff not include that in the covenants until they discussed the building permits. Commissioner Vincent did not agree however he was in favor of the proposal. **Commissioner Murdock moved to strike conditions #9(a) and 16. Seconded by Commissioner Mitchell. Commissioner Murdock agreed that they needed law enforcement impact fees however until it was discussed and made policy he would not support it. Commissioner Mitchell concurred. Commissioners Mitchell and Murdock voting aye. Commissioner Vincent voting nay. Motion carried. Commissioner Murdock moved to approve the application with the findings entered into the record and with the conditions as amended. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Karin Caroline reported on the public hearing and consideration of a request for approval for the Petra Academy Conditional Use Permit on behalf of Susan Gianforte, described as the SE ¼ of Section 23, T2S, R5E, PMM, Gallatin County, Montana; Lot 4 of the Genesis Business Park Subdivision. The CUP request for approval is to allow a Christian school for students, grades K-12. The subject property is a previously approved two-story office building within the Genesis Business Park. Genesis Business Park Subdivision was created in the late 1990's and is presently zoned R-O (Residential Office District) in the former "donut" area. The proposed school would initially occupy the ground floor and professional offices would be located on the second story. All the roads have been constructed and the business park operates on its own private water and wastewater system. There are design guidelines within the covenants of the Genesis Business Park Subdivision that govern site development and architectural and landscape treatments. With 10 proposed classrooms, which would easily accommodate the 50 students and could accommodate more students. If additional space (i.e. classrooms) is needed, the applicant has expressed a desire to expand to the upper floor. If future expansion is necessary beyond the proposed 10 classrooms, it will be necessary for the applicant to propose additional parking spaces. As proposed with a library, cafeteria area, administrative office, and 10 classrooms, the minimum amount of parking spaces (19) required has been met. There are 19 spaces required for the office space on the second floor. Should the applicant wish to expand the school operation, additional parking spaces may be required. Under Chapter 47 of the Gallatin County/Bozeman Area Zoning Regulation, parking spaces for schools are calculated based on the number of classrooms, not on the number of students. The proposed school could accommodate more than the anticipated 50 students in the same proposed 10 classrooms. If the classroom number expands (in order to accommodate an even larger amount of students), additional parking spaces will be required. The applicant expressed a desire to work with adjacent properties for a shared parking arrangement. The Planning Board held a public hearing on the proposed CUP on April 22, 2003, at which time a favorable recommendation (8-0) of conditional approval was forwarded to the County Commission. The County Commission has one determination to make with this application: A determination whether or not to approve, conditionally approve, or deny the proposed conditional use permit application. The basis for the Commission's decision shall be whether the conditional use permit application and additional information, demonstrate that the development meets the findings of Chapter 53.030 of the

Gallatin County/Bozeman Area Zoning Regulations. If the County Commission approves the proposed conditional use permit application, the following conditions are suggested: Site Specific Conditions: 1. Applicant shall install an outdoor activity area along the eastern and northern portions of Lot 4, subject to the needs and requirements of the school. 2. Applicant shall consider the safety of the children when providing any outdoor play areas. Those areas shall be screened from the adjacent vacant land to minimize wandering children, potential roaming wildlife (i.e. ground squirrels, rabbits, etc.), and offer protection from inclement weather. 3. The required amount of parking spaces has been met for the proposed school and second story office space. The amount of parking spaces is based on the number of classrooms not the number of students. Should the school expand beyond the proposed 10 classrooms, the applicant shall provide for any additional parking that may be required by Chapter 47 of the Gallatin County/Bozeman Area Zoning Regulation. Applicant shall contact adjacent properties for the possibility of a shared parking arrangement in the future. 4. The Final Site Plan shall show the correct drive aisle dimensions: one-way minimum – 16 feet; and two-way drive aisles – 24 feet. Standard Code Provisions: 5. The applicant shall submit an adequately dimensioned Final Site Plan within 6 months of preliminary CUP approval, as well as a written narrative indicating how all conditions of approval have been met. If occupancy of the buildings is to occur prior to completion of all required improvements, an Improvements Agreement must be financially guaranteed. 6. The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure. 7. All of the special conditions shall constitute restrictions running with the land use, shall apply and be adhered to by the owner of the land, successors or assigns, shall be binding upon the owner of the land, his successors or assigns, shall be consented to in writing, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval, or commencement of the conditional use. 8. That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns. 9. That all of the special conditions shall be consented to in writing by the applicant. Conditions #1 and 2 were based on written comment received from Bridger Systems because of concerns regarding noise level. The applicant Susan Gianforte stated that her and her husband are partners in the Genesis Park with the Daines families. She spoke of the proposed plans for the Christian School, noting that it was in their best interest to work with other tenants. There was no public comment. **Commissioner Murdock believed this was a good project and moved to approve the request with the conditions as presented by staff, finding that this permit meets the findings of Chapter 53.030 of the Gallatin County/Bozeman Area Zoning Regulations. Seconded by Commissioner Mitchell, adding that it made it easier that the applicant is also part owner of those businesses who would be negatively impacted and that it was in their best interest to make it work for everyone. None voting nay. Motion carried.**

Gallatin County Planner Karin Caroline reported on the consideration of a resolution of the Gallatin County Commission amending the Gallatin County/Bozeman Area Zoning Regulation, Section 26.020.B (R-O Zoning District) for a zone test amendment. The request is for a text amendment language change in Section 26, the Residential Office Zoning District. It is requesting to add as a permitted conditional use "Health and Exercise Establishments", within that R-O Zoning District. There are two zoning districts that allow for professional office complexes or business park campuses; those are the Business Park (BP) and Residential Office (R-O) zoning districts. Essentially they are very similar in the sense of professional offices and business park campus like environment. Their clear difference is on the lot size: Under BP Zoning the minimum lot size is one-acre and in the R-O District the lot size cannot be less than 5,000 square feet. There are only two areas currently within the former "donut" area that are zoned R-O. The BP Zoning District already allows for such a conditional use; therefore the addition of "Health and Exercise Establishments; within the R-O Zoning District follows a similar development pattern within professional office complexes or business park settings. Staff reviewed the proposed text amendment to the R-O Zoning District, and provided evaluation of the proposal against criteria established by state law in Section 76-2-304, MCA. The Planning Board conducted a hearing on April 22, 2003, and unanimously voted approval (8:0). The County Commission has one determination to make with this application. A determination whether or not to approve the proposed zone test amendment. The basis for the Commission's decision shall be whether the zone text application and applicant and staff's response to review criteria meet the requirements of Section 76-2-304, MCA and intent of the R-O Zoning District within the Gallatin County/Bozeman Area Zoning Regulations. If the County Commission approves the proposed zone text amendment, the following language is suggested: In Section 26.020.B of the Gallatin County/Bozeman Area Zoning Regulations, add as a permitted conditional use, "Health and exercise establishments". Ms. Caroline confirmed there were no negative impacts on any property with this change. There was no public comment. **Finding that health establishments are consistent with the existing zoning and that all the criteria have been met, Commissioner Murdock moved to approve Resolution #2003-049. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Brian Close reported on the public hearing and consideration of county appropriation for a Public Transit Study. Mr. Close briefly updated the Commission on the project. The city has committed to \$24,457 for public outreach and survey, and they are requesting that the county commit \$21,543 for the technical assessment part of this project. Bozeman City Manager Clark Johnson preferred to proceed with an RFP in cooperation with the county. It was Mr. Close's understanding that the county will have input on the survey, which has been a concern. He explained that there might be more than one survey, to target additional populations, such as an email survey to the students. He addressed questions from the last meeting with the Commission in terms of who will use the transit system. He pointed out that the backbone of the system in Billings and Great Falls are children, senior citizens, college students, and low-income citizens. Mr. Close believed that there was no better economic development measure this community could move forward on than public transit, adding that the university system was an excellent place to start because of the restricted parking. Commissioner Vincent approved of this approach and the study however he had concerns relative to the content of the survey. He wanted to have input relative to not only how each question is written but also whether the totality of those questions addressed what he needed to know. Mr. Close stated that the County Commission could make it a condition of their resolution to have veto power over the survey. Commissioner Mitchell believed it would be better if they had more participants so they would have more buy in. To make this work they need rider ship and the rider ship needs to serve the greatest number of people, in the broadest sense, and the greatest participation. She questioned if Mr. Close had requested any other entities to also participate in this proposal such as: school districts; MSU; larger businesses (in Four Corners); The City of Belgrade; the Senior Center; retirement homes; mall; and businesses on North 19th. She stated if they participate they will have buy in and will help promote the idea of user ship. Mr. Close directed her to Appendix C of the feasibility study, which is the proposal to establish a stakeholder's board, which covers many of those organizations. He stated that part of this process is to broaden the basis for this study and ASMSU has committed in principal when this system starts to contribute their Bobcat transit to the process. He added that they have had discussions with Belgrade and they have agreed to cooperate with this process. City Commissioner Brown has taken it upon himself to initiate discussions with the Economic Development Council and businesses in the community. The Chamber was represented on the task force as was ASMSU and the Downtown Business Partnership. It was the recommendation of the task force to have this additional study. Mr. Close drafted an initial stakeholders board for a proposal, which has been forwarded to the city and will be coming to the county. Commissioner Mitchell stated that money would be beneficial and would equate to a true buy in. Mr. Close stated that ASMSU committed to \$87,000 a year once the system starts. Commissioner Mitchell stated that she could not support this proposal if everyone is not contributing at some level financially. Mr. Close believed that a buy in could be obtained by giving everyone a seat at the table that was willing to participate in the process. He stated that Commissioner Mitchell's proposal raised another barrier in this process and he recommended that she reconsider. Joe Frost stated his belief was that the survey will make or break the transit system and he thought the city and county needed to do it together. He added that it would improve the quality of life for many people of this community and expressed the importance of the survey and to get it done quickly to keep it on track. Mr. Close spoke of Galavan adding that the idea they expand current services does not make sense. **Commissioner Murdock moved to approve the expenditure of no more than \$23,000 towards the technical assessment survey study, subject to agreement though contract or inter-local agreement through the RFP process and specific like questions herein. Seconded by Commissioner Vincent.** Commissioner Murdock pointed out that they are not creating with this motion a public transit system; this is a process that has to be taken in stages. He had no problem taking a leadership role in helping to at least fund and find out the feasibility of a transit system. He agreed with Commissioner Mitchell in that they do need buy in by the school district and others mentioned. Commissioner Mitchell stated that she was not going to support a proposal that uses tax dollars negatively and that has not fully explored true buy in of potential users that include financial support. Commissioner Vincent agreed with Mr. Frost, adding that the survey is the key and that is why he emphasized the buy in. He wanted to come as close to having veto power as he possibly could because he believed the survey was critical and that they need the backing. He commented that this is not just simply a question of whether or not the public wants or would like to develop a transit system. It is also a question of whether or not the public wants to do it and pay the bill for it, along with paying the bill for a number of other priorities or if they want to forgo or scale back on other priorities in order to pay for this one. Noting that legislature and the executive branch has failed to address tax reform in this state everything falls on property tax, such as the jail, mental health care, Open Space, and the Bozeman High School District. He stated that the survey has to be a survey of sorts that does not isolate this issue but addresses it as one component of the overall community. He pointed out that Galavan one of the counties and cities greatest accomplishments, so he did not want to negatively impact the service they provide. He wants to make sure that there is a full public discussion on the merits of a flexible system versus a fixed system. He believed they needed to ask what kind of commitment this community is willing to make over the long term through their tax system given these other needs. **Commissioners**

Vincent and Murdock voting aye. Commissioner Mitchell voting nay. Motion carried. David Kack, research associate with Western Transportation Institute, College of Engineering at MSU stated that they have had some involvement in the process and there was some discussions regarding WTI MSU Bozeman being used as a sole source. Mr. Kack stated that the Director of WTI, would like WTI to be viewed as an a resource and offered their expertise.

There were no pending resolutions. There being no further business the meeting was adjourned at 12:16 P.M.

CHAIRMAN APPROVAL

CLERK ATTEST

PUBLIC MEETING

TUESDAY THE 13TH DAY OF MAY 2003

The meeting was called to order by Chairman John Vincent at 9:03 A.M., at the City Commission Meeting Room. Also present were County Commissioners Jennifer Smith Mitchell and Bill Murdock, and Acting Clerk to the Board Mary Miller.

Chairman Vincent requested that everyone join together in a moment of silence for reflection or prayer followed by the Pledge of Allegiance. The following proceedings were had to wit:

MAY 5, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent, Murdock and Mitchell; Sheriff Jim Cashell, County Attorney Marty Lambert, Commission Assistants Christina Thompson and Glenda Howze, and guests Gloria Hardin, Judy Kelly, Florence Wilson, and Theresa Allen and two members of the media. Sheriff Cashell presented proposals regarding medical coverage at the Detention Center. Discussion took place regarding how other similar facilities handle their medical needs. The group also discussed whether or not insurance is included in the price quotes. The Sheriff agreed to come back to the Commissioners with a recommendation from the quotes, along with additional information on insurance coverage.

Commissioner Vincent spoke to the group, asking for support of a County-wide ordinance or ballot question regarding the regulating of strip clubs and nude dancing facilities. He gave statistics regarding crime rates and land values in conjunction with this type of establishment. County Attorney Lambert explained that there cannot be regulations that absolutely prohibit, but they can be zoned to help those that are opposed. Commissioners Murdock and Mitchell both stated that they would not top-down an ordinance of this type, that if the residents of Gallatin County wish to have this type of zoning they need to do it themselves through the petition process. Commissioner Vincent stated that it would be impossible to get the necessary numbers, 60% of residents, 50% of landmass, on a petition to do county-wide zoning. He asked if the other Commissioners would agree to place the item on a ballot for consideration of all voters. Commissioner Murdock stated that he would consider this – as an advisory referendum. Mr. Lambert stated that the County cannot regulate alcohol, and can only regulate the time, place and manner of these establishments. Commissioner Vincent stated that he would continue to pursue this to the best of his ability.

The Commissioners considered continued support of the Cooperating Agency Project. They unanimously agreed to commit no more funds to this project.

The Commissioners considered approval of a request from Victim Services for a budget transfer. Commissioner Murdock made a motion to approve said request. Commissioner Mitchell seconded the request. All voted aye. Motion carried unanimously.

Sheriff Cashell presented the minutes from a meeting of the Consultation Evaluation Team held on May 2, 2003. The team met to discuss the RFQ's for the Detention Center Renovation. Those members present, Sheriff Cashell, County Attorney Lambert, Larry Watson, and Robert Isdahl, unanimously approved a motion to recommend Prugh and Lenon Architects to the Commission as the architect for the work on the Detention Center. Commissioner Murdock made a motion to approve the recommendation of the Consultant Evaluation Team to negotiate a contract with Prugh and Lenon Architects for renovation work on the Detention Center. Commissioner Vincent seconded the motion. In discussion, Commissioner Mitchell inquired about the legality of the firm that worked on the Scope of Work also bidding for the contract. County Attorney Marty Lambert stated that Prugh and Lenon will always have an advantage as they have done so much work on the Detention Center, however, it is not illegal for them to bid on the project and there is no requirement for interviewing those firms that applied. Commissioner Mitchell stated that she would not support

the motion, as she does not feel it is good business practice. The question was called. Commissioner Vincent and Murdock voted aye. Commissioner Mitchell voted nay. Motion carried with a vote of two to one.

The Commissioners discussed a request from Montana Department of Environmental Quality regarding the Dennis Simpson gravel pit. It was agreed that it is too late to comment.

The Commissioners considered approval of Change Order G-7 to the Ingram-Clevenger contract for renovation of the revolving door. Commissioner Mitchell stated that the cost originally was going to be \$50,000, but is now only \$11,509. Commissioner Murdock made a motion to approve said change order, finding that there is adequate funds to cover this change and it has been recommended by the Commission liaison for Phase III, IV construction. Commissioner Mitchell seconded the motion. All voted aye. Motion carried unanimously.

MAY 6, 2003

- The Commissioners conducted regular County business.

MAY 7, 2003

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Vincent and Murdock, Road and Bridge Superintendent Lee Provance, Rest Home Administrator Connie Wagner, Grants Assistant Alisha Lawson, and Commission Assistants Christina Thompson and Glenda Howze. The Commissioners considered approval of a contract for the Intergovernmental Transfers Program. Ms. Wagner explained that the agreement requires that the County send the State \$309,129.65 and in return the State sends the County \$481,889.69 – for a net gain of \$172,760.24. Commissioner Murdock made a motion to approve said contract. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of an application to the Montana Board of Crime Control on behalf of the Southwest Regional Juvenile Detention Board. Commissioner Murdock made a motion to approve said application. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request from Clean Cities for funding in the amount of \$5,000 for ongoing Clean Cities projects. Commissioner Murdock made a motion to approve said request in the amount of \$5,000. and to respond in written form telling them of the approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

MAY 8, 2003

- The Commissioners conducted regular County business.

MAY 9, 2003

- The Commissioners attended a special meeting for the purpose of approving a resolution implementing a road impact fee use in the Belgrade area of Gallatin County for Amsterdam Road Improvements. In attendance were Commissioners Vincent and Murdock, RID Attorney Susan Swimley, and Commission Assistant Glenda Howze. This resolution was discussed at the public meeting on May 6th. Changes were made in accordance with the discussion. Commissioner Murdock made a motion to approve Resolution 2003-047, finding that RID Attorney Susan Swimley and the County Attorney have reviewed and recommended its approval. Commissioner Vincent seconded the motion. All voted aye. Motion carried with a vote of two to zero.

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- Landfill Revenue for April 2003: \$97,101.43.
- Payroll for April 2003: \$1,202,559.69.
- Clerk & Recorder's Fees Collected for April 2003: \$100,731.54.
- A-101's for April 2003: \$391,479.18.
- Applications for Cancellation of Taxes for April 2003: \$11,526.81
- New Hire Report for April 2003: Rick Blackwood, Janelle Logerstedt, Liliana Martinez, Mindie Moore, Gregory Nagel, James Royce, Stacy Schmidt, Jennifer Sheridan, Michael Watson

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- Terminated Employees' Report for April 2003: Jennifer Angelus, Sherri Douma, Cassie Hinds, Bruce Marcott, Devon Stacey, John Vollmer, Sarah Wheeler

The following items were on the consent agenda:

1. Claims were presented for approval by the Auditor dated May 8, 2003, in the amount of \$186,246.29.
2. Consideration of Request for Reduction of the Letter of Credit for the Gallatin Peaks Town Center Subdivision Phase 1, Improvements Agreement. Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson recommended approval and that the Commission sign the April 18, 2003, new letter of credit issued by U.S. Bank.
3. Request for Mortgage Survey for Lorie L. Hovanec, described as a parcel of land being the remainder of Tract 7 of Smith's Subdivision, located in the N ½ of the NW ¼ of Section 11, T2S, R5E, PMM, Gallatin County, Montana. (222 Valley Avenue, Bozeman, MT). Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
4. Request for Mortgage Survey for Timber Line Angus, LLC and principals Katherine L. Callatine, Jason L. Callantine, Jane Mersen Callantine, described as the NW ¼ of Section 34, T3N, R5E, PMM, Gallatin County, Montana. (3691 Flathead Pas Road, Belgrade, MT). Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
5. Request for Court Ordered Exemption for Robert C. Piper, described as Tract A of COS 1113D, located in the NW ¼ of the SW ¼ of Section 33, T1N, R5E, PMM, Gallatin County, Montana. (4141 Springhill Road, Bozeman, MT). Gallatin County Planner Victoria C. Drummond reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.
6. Approval of Contract(s): Criminal Justice System Assessment-"Professional Services Agreement" and Westfork Meadows Owner's Association-Road Agreement.

Commissioner Murdock read the consent agenda. There was no public comment. **Commissioner Murdock moved to approve the consent agenda as read. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Open Lands Board Coordinator Mike Harris reported on the public hearing and consideration for Level One approval for the expenditure of funds from the Open Space Bond for the Tri-View Ranch Conservation Easement in the amount of \$165,000 for the purchase of development rights on 767 acres more or less. Ranger and Barbara Dykema of Manhattan own the property. The estimated fair market value of the Conservation Easement is \$575,000. The \$165,000 from the Open Space Bond will be leveraged against \$410,000 from the Federal Farmland Protection Program and other public and private sources. The county portion amounts to 29% of the total value of the easement. The Open Lands Board met on May 12, 2003, and the Board unanimously voted 10:0 for approval of Level One. Mr. Harris provided slides of the proposed area pointing out that the property was within the view shed of a major public transportation route, that it was significant for agricultural purposes, and that it has scenic and wildlife values. Ranger Dykema explained his reason for applying for the conservation easement was so his sons could continue their interests in agriculture, noting that this would be an opportunity to expand and stay in agricultural production. Alex Diechman on behalf of The Trust for Public Land spoke regarding Farmland Protection Program funding. **Commissioner Mitchell moved to approve the Tri View Ranch project for expenditure of Open Space Bond money, finding that the application meets the intent of the Montana Open-Space Land and Voluntary Conservation Easement Act as applied in the Gallatin County Open Space Grant Program and MCA 7-8-2202 requiring an estimate from a certified licensed general real estate appraiser and that the Dykema's application for a grant from the Gallatin County Open Space Funds is approved on the condition that the proposed conservation easement is reviewed by the proper planning authority and the County Attorney in compliance with MCA 7-8-2202 and that the application then proceed to Level Two review under the Program application process. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Clerk and Recorder Chief Deputy Eric Semerad reported on receipt of a petition to abandon a portion of the cul-de-sac on Pollywog Lane, described as the northern and southern parts of the cul-de-sac of Pollywog Lane lying outside of the 60' right-of-way as dedicated on the plat of Minor Subdivision #307, located in the NW ¼ of Section 13, T1S, R4E, PMM, Gallatin County, Montana. Mr. Semerad read the

certification of Gallatin County Clerk and Recorder Shelley Vance stating that she examined the petition and pursuant to Section 7-14-2601 MCA 2001, it contained the signatures of at least 10 qualified freeholders in Gallatin County. There was no public comment. **Commissioner Murdock moved to accept the petition for the abandonment of a portion of Pollywog Lane and appointed a viewing committee, consisting of Commissioner Vincent and Ms. Vance, with the assistance of Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Don Bachman, Secretary Trustee of the Sourdough Rural Fire District reported on consideration of a resolution of intent to amend the Sourdough Rural Fire District FY 2003 budget by appropriating \$25,792 in revenues received from Fire Impact Fees for the purchase of a pumper tank apparatus. Mr. Bachman was aware if in the event Fire Impact fees were found to be illegal or unconstitutional the district would repay the amount of Fire Protection Impact Fees spent. There was no public comment. **Commissioner Mitchell moved to approve Resolution of Intent #2003-050. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson reported on the public hearing and consideration of a resolution of the Gallatin County Commission adopting the Gallatin County Subdivision Regulations in accordance with the Gallatin County Growth Policy. Mr. Johnson explained that this did not include any substantive changes to the Subdivision Regulations, which are currently being updated to reflect the Growth Policy requirements, other statutory legislative changes, refinements, and clarifications. There was no public comment. **Commissioner Murdock moved to adopt Resolution #2003-051. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Finance Officer Ed Blackman reported on a resolution to amend the Weed District FY 2003 budget to include unanticipated special 2003 County Weed District/Reservation Grant and Valley Center 4-H Education Grant revenues in the amount of \$9,393. There was no public comment. **Commissioner Murdock moved to approve Resolution #2003-052. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Commissioner Mitchell briefly summarized the public hearing and consideration of the first reading of an ordinance reducing the speed limit in the Bear Creek Properties Subdivision. Commissioner Vincent questioned if the newly established North Low Bench Road should be included in the ordinance because of a recent change by the Gallatin County GIS Department. Deputy County Attorney Kate Dinwiddie requested the opinion of Gallatin County Road and Bridge Superintendent Lee Provance and noted that the Commission would have to make a determination of whether or not that would be a substantive change or a major change. Mr. Provance stated that a speed study was not conducted. He believed that it made sense to include North Low Bench Road because initially the road was included in the petition before the name change. There was no public comment. **Commissioner Murdock moved to include North Low Bench Road in the ordinance, finding it was included in the petition therefore, he believed it was not a substantive change. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Mitchell moved to approve the first reading of Ordinance #2003-010. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Murdock briefly summarized the public hearing and consideration of the first reading of an ordinance reducing the speed limit on Story Mill Road. Gallatin County Road and Bridge Superintendent Lee Provance confirmed that a speed study was conducted on May 1, 2002; the 85-percentile speed was 38 MPH. A speed limit of 35 MPH was recommended to be consistent with the city portions and because of the grade of the hill, terrain and site distance. Public comment: Lynn Rugheimer spoke in support of the ordinance. Further discussion took place with regard to the bridge rating on Story Mill Road. **Commissioner Mitchell moved to approve the first reading of Ordinance #2003-011. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

Commissioner Vincent briefly summarized the public hearing and consideration of the first reading of an ordinance reducing the speed limit on a portion of Durston Road. Gallatin County Road and Bridge Superintendent Lee Provance asked that the Commission not pass the ordinance because it did not include set days or times. After further discussion it was determined that it would be best to continue taking action until a decision was made on how to proceed. Action was continued indefinitely. **No action taken.**

Gallatin County Planner Victoria Drummond reported on the public hearing and request for a family transfer exemption for Jason Lea, described as Tract 2 of COS 2310, located in the NE ¼ of Section 9, T2S, R4E, PMM, Gallatin County, Montana. Ms. Drummond briefly summarized the requested exemption, noting the proposed land transfer appeared to be valid however until the claimant's testimony under oath it was unclear if the proposed family transfer exemption is an attempt to evade the Montana Subdivision and Platting Act. Ron Allen surveyor for the applicant requested that the Commission continue with the remaining agenda items until his client was available. The Commission agreed. **No action taken.**

While waiting for Mr. Lea to arrive, Commissioner Vincent moved ahead to regular agenda Item #11, in anticipation that regular agenda Item #10 would take longer.

Gallatin County Grants Administrator Larry Watson reported on the public hearing regarding final consideration of FY 2003 CTEP applications. Mr. Watson provided for the Commission the FY 2003-2004 CTEP summary, labeled Exhibit "A". He reminded the Commission of the two active projects that were not reflected in the submittal which were the renovation of the Manhattan State Bank building; and a project for a sidewalk, curb, and gutter. A current total county balance for reserve of CTEP money with the budgets for the two active projects removed is \$258,842. He recommended holding 15 percent contingency of the total amount in reserve for any cost changes that may occur. He noted in 2 previous years the Commission committed a total of \$150,000 of CTEP funds to the Trident trail. Taking out the \$150,000 and the 15 percent contingency reserve the remaining CTEP reserve is \$70,016. Mr. Watson has not yet received a formal funding allocation from the Department of Transportation however they told him to use a planning estimate of \$140,000. With that the total CTEP balance estimate for this funding year would be \$210,016. There were two proposals submitted this year. The first proposal was from the Town of Manhattan for Phase 1 of the three-phase trail project going north out of town towards the Gallatin River. The request is in the amount of \$47,560. The second proposal was a third request from the group proposing the Trident trail. They requested an additional \$100,000 to go toward that project this year, which would make the total CTEP request \$250,000. The total request for both projects this year will be \$169,694, leaving a remaining balance of \$40,319 if both proposals are funded. There was no public comment. Mr. Watson was confident that he withheld enough contingency funding to be able to address any changes. **Commissioner Murdock moved to approve \$47,560 from CTEP monies as outlined by Mr. Watson for the Manhattan Trail Phase 1 project. Seconded by Commissioner Mitchell. None voting nay. Motion carried. Commissioner Murdock moved to approve an additional \$100,000 from this year's CTEP money for the Trident Trail, bringing the total allocated CTEP money to \$250,000. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of a one-year extension of preliminary plat approval for Crowley, Haughey, Hanson, Toole & Dietrich, Attorneys at Law on behalf of Concinnity LLC for Phases III and IV of the Elk Grove Planned Unit Development. Preliminary plat was granted on June 27, 2000, with an expiration date of June 27, 2003. In total, the Elk Grove PUD consists of a 312-lot major subdivision on a 300-acre parcel located in portions of Sections 23, 24, 25, and 26, T2S, R4E, PMM, Gallatin County, Montana. The property is generally located east of Highway 191, north of Blackwood Road, south of Violet Road, approximately one and a half miles south of Four Corners. Section 3(1) of Gallatin County Subdivision Regulations gives the Commission the authority to grant a one-year extension of preliminary plat approval. If approved by the Commission, the preliminary plat of Phase III & IV of the Elk Grove PUD would expire on June 27, 2004. Mr. O'Callaghan noted that the applicant's rationale for the extension was explained in a letter attached to the staff report. Representing the applicant, Attorney David Wagner pointed out that the agenda and the staff report indicate that this is an extension of preliminary plat when in fact it is final plat approval. It was his understanding that the developer anticipated seeking final plat approval for Phase III by late fall 2003 and final plat for Phase IV in early spring of 2004. Commissioner Murdock asked specifically what improvements have not been finished. Mr. Wagner did not know, he only knew they were not prepared to seek final plat approval by the end of June. Mr. O'Callaghan was also unaware of what improvements needed to be completed. Public comment: Frank Silva outlined a series of dates and events that have taken place since the June 27, 2000

hearing when preliminary plat approval was granted. Mr. Silva stated in order to grant a one-year extension the developer and their attorney's need to present to the Commission an accurate reason or reasons for the extension. He submitted Exhibit "A" a letter dated April 11, 2003, from the Crowley law firm stating that condition #27 was the cause of their delays to complete all four phases. He believed that statement was an incorrect reason for the Commission to grant a one-year extension. He believed the real reason for the delays was a result of the developers themselves. Mr. Silva went over documented facts on record submitting them as a packet and labeled Exhibit "B". He believed the Commission had no choice but to grant Elk Grove an extension for Phases III and IV but it comes at a cost to the people of the county. He stated that the public would be without public trails, soccer fields, baseball fields, improvements to Blackwood Road and turn bays onto Highway 191. He submitted Exhibit "C" a facsimile dated April 16, 2003, to Mr. O'Callaghan from Mr. Wagner. Commissioner Murdock asked Deputy County Attorney Kate Dinwiddie if the Commission had any discretion on granting an extension because he had not heard any reasons articulated. Ms. Dinwiddie stated that she would have to research whether or not the Commission had any discretion. Gallatin County Subdivision and Zoning Review Manager W. Randall Johnson stated that the Subdivision and Platting Act specifically gives 3 years for preliminary plat approval with the opportunity for a one-year extension. He instructs developers who are requesting an extension to provide a valid reason for the hardship so the Commission can make a finding that the extension is warranted due to some unforeseen circumstance. He stated if there is not a hardship then the legislature should give 4 years. Mr. Wagner stated that Mr. Silva's testimony was consistent with what his clients have told him which is that there was a delay in completion of Phase I. They could not go into Phase II without completion of Phase I, and he believed that was the hardship in the requirement for additional time. He did not think there was anything unreasonable in this request. He stated that the developer could not go any further until resolving the access issue in which condition #27 was inconsistent with MDOT's requirement for the access. It was ultimately resolved with an agreement with the county, which took some time. He clarified his reasons for questioning a public hearing in his facsimile dated April 16, 2003 (Exhibit "C"). Commissioner Mitchell replied that they now have to take public comment on every item on the agenda whether it was required by statute or not. Commissioner Murdock stated that unless it was articulated to him what specific improvements are being delayed he wanted to postpone a decision on granting an extension. He requested Mr. O'Callaghan to make an onsite visit to the Elk Grove development to see what improvements have not been completed. Mr. O'Callaghan asked if the Commission would be willing to ask the applicant's representative to specifically address in writing which conditions are not met. Commissioner Mitchell concurred that more specifics were needed on the improvements to be completed. Commissioner Vincent wanted to review the record regarding the controversy and disagreement of the access issue to see whether or not other progress was slowed down because that one particular issue. Commissioner Murdock requested that Mr. Wager ask the developers for more specificity on the projects or improvements they are asking for a delay on and bring it back in a week or two. He stated if they were asking for a delay on the trails and ball fields, he would not agree to an extension. Action was continued indefinitely. **No action taken.**

Jason Lea was sworn in by Deputy County Attorney Kate Dinwiddie and testified under oath answering questions to assist the Commission with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. There was no public comment. **Based on the information received, Commissioner Murdock moved to approve, finding that this is a proper use of the exemption. Seconded by Commissioner Mitchell. None voting nay. Motion carried.**

There were no pending resolutions. There being no further business the meeting was adjourned at 10:35 A.M.

CHAIRMAN APPROVAL

CLERK ATTEST